

CITY OF ONTARIO PLANNING COMMISSION/ HISTORIC PRESERVATION MEETING AGENDA

February 28, 2017

Ontario City Hall
303 East "B" Street, Ontario, California 91764

6:30 PM

WELCOME to a meeting of the Ontario Planning/Historic Preservation Commission.

All documents for public review are on file in the Planning Department located at 303 E. B Street, Ontario, CA 91764.

- *Anyone wishing to speak during public comment or on a particular item should fill out a green slip and submit it to the Secretary.*
- *Comments will be limited to 5 minutes. Speakers will be alerted when their time is up. Speakers are then to return to their seats and no further comments will be permitted.*
- *In accordance with State Law, remarks during public comment are to be limited to subjects within the Commission's jurisdiction. Remarks on other agenda items will be limited to those items.*
- *Remarks from those seated or standing in the back of the chambers will not be permitted. All those wishing to speak including Commissioners and Staff need to be recognized by the Chair before speaking.*
- *The City of Ontario will gladly accommodate disabled persons wishing to communicate at a public meeting. Should you need any type of special equipment or assistance in order to communicate at a public meeting, please inform the Planning Department at (909) 395-2036, a minimum of 72 hours prior to the scheduled meeting.*
- *Please turn off all communication devices (phones and beepers) or put them on non-audible mode (vibrate) so as not to cause a disruption in the Commission proceedings.*

ROLL CALL

DeDiemar ___ Delman ___ Downs ___ Gage ___ Gregorek ___ Reyes ___ Willoughby ___

PLEDGE OF ALLEGIANCE TO THE FLAG

ANNOUNCEMENTS

- 1) Agenda Items
- 2) Commissioner Items

PUBLIC COMMENTS

Citizens wishing to address the Planning/Historic Preservation Commission on any matter that is not on the agenda may do so at this time. Please state your name and address clearly for the record and limit your remarks to five minutes.

Please note that while the Planning/Historic Preservation Commission values your comments, the Commission cannot respond nor take action until such time as the matter may appear on the forthcoming agenda.

CONSENT CALENDAR ITEMS

All matters listed under CONSENT CALENDAR will be enacted by one summary motion in the order listed below. There will be no separate discussion on these items prior to the time the Commission votes on them, unless a member of the Commission or public requests a specific item be removed from the Consent Calendar for a separate vote. In that case, the balance of the items on the Consent Calendar will be voted on in summary motion and then those items removed for separate vote will be heard.

A-01. MINUTES APPROVAL

Planning/Historic Preservation Commission Minutes of January 24, 2017, approved as written.

A-02. ENVIRONMENTAL ASSESSMENT AND DEVELOPMENT PLAN REVIEW FOR

FILE NO. PDEV16-052: A Development Plan (File No. PDEV16-052) to construct a 163-unit multi-family townhome and rowtown project consisting of 5 two-story 14-unit townhome complexes and 16 two-story rowtown complexes (fifteen 6-unit complexes and one 3-unit complex) on 14.62 acres of land located within the Medium Density Residential (MDR) and Low Density Residential (LDR) districts of Planning Area 11 of The Avenue Specific Plan, located at the southwest corner of Ontario Ranch Road and New Haven Drive. The environmental impacts of this project were previously analyzed in an addendum to The Avenue Specific Plan EIR (SCH# 2005071109) that was adopted by the City Council on June 17, 2014. All adopted mitigation measures of the addendum shall be a condition of approval for the project and are incorporated herein by reference. The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plans (ALUCP) for ONT Airport. (APN: 0218-412-04); **submitted by Brookfield Residential.**

A-03. ENVIRONMENTAL ASSESSMENT AND AGREEMENT FOR THE REMOVAL, RELOCATION, AND PLACEMENT OF BILLBOARD SIGNS (FILE NO. PSGN17-016):

An interagency billboard relocation agreement to remove six billboards and allowing the placement of a new billboard at 1550 N. Palmetto Avenue. The project is categorically

exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15662 (Class 32 - In-fill Development Projects). The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT), and was evaluated and found to be consistent with the policies and criteria of the ONT Airport Land Use Compatibility Plan (ALUCP). (APNs: 110-022-12, 110-131-19, 210-212-60, 1008-261-45, 1011-111-10, and 1011-182-10); **submitted by City of Ontario, San Bernardino County Transportation Authority, and Lamar Central Outdoor, LLC. City Council action is required.**

PLANNING COMMISSION PUBLIC HEARING ITEMS

For each of the items listed under PUBLIC HEARING ITEMS, the public will be provided an opportunity to speak. After a staff report is provided, the chairperson will open the public hearing. At that time the applicant will be allowed five (5) minutes to make a presentation on the case. Members of the public will then be allowed five (5) minutes each to speak. The Planning Commission may ask the speakers questions relative to the case and the testimony provided. The question period will not count against your time limit. After all persons have spoken, the applicant will be allowed three minutes to summarize or rebut any public testimony. The chairperson will then close the public hearing portion of the hearing and deliberate the matter.

B. ENVIRONMENTAL ASSESSMENT AND TENTATIVE PARCEL MAP REVIEW

FOR FILE NO. PMTT16-010: A Tentative Parcel Map (File No. PMTT16-010; PM 19725) to subdivide 40.10 acres of land into 4 numbered lots and 1 lettered lot within the Regional Commercial/Mixed Use district (Planning Area 8A) of the Rich-Haven Specific Plan, located at the southeast corner of Ontario Ranch Road and Mill Creek Avenue. The environmental impacts of this project were previously analyzed in an addendum to the Rich-Haven Specific Plan EIR (SCH# 2006051081) that was adopted by the City Council on March 15, 2016. All adopted mitigation measures of the addendum shall be a condition of approval for the project and are incorporated herein by reference. The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plans (ALUCP) for ONT Airport. (APNs: 0218-211-12 and 0218-211-25); **submitted by GDIC-RCCD2-L.P.**

1. CEQA Determination

No action necessary – use of previous EIR

2. File No. PMTT16-010 (Tentative Parcel Map)

Motion to Approve/Deny

C. ENVIRONMENTAL ASSESSMENT AND TENTATIVE PARCEL MAP REVIEW
FOR FILE NO. PMTT16-011:

A Tentative Parcel Map (File No. PMTT16-011; PM 19741) to subdivide 19.64 acres of land into 4 numbered lots within the Regional Commercial/Mixed Use district (Planning Area 8A) of the Rich-Haven Specific Plan, located at the southwest corner of Ontario Ranch Road and Hamner Avenue. The environmental impacts of this project were previously analyzed in an addendum to the Rich-Haven Specific Plan EIR (SCH# 2006051081) that was adopted by the City Council

on March 15, 2016. All adopted mitigation measures of the addendum shall be a condition of approval for the project and are incorporated herein by reference. The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plans (ALUCP) for ONT Airport. (APN: 0218-211-25); **submitted by GDIC-RCCD2-L.P.**

1. CEQA Determination

No action necessary – use of previous EIR

2. File No. PMTT16-011 (Tentative Parcel Map)

Motion to Approve/Deny

D. ENVIRONMENTAL ASSESSMENT AND DEVELOPMENT AGREEMENT FOR FILE NO. PDA16-003: A Development Agreement between the City of Ontario and GDIC-RCC2-L.P., to establish the terms and conditions for the development of Tentative Parcel Maps 19725 (File No. PMTT16-010) and 19741 (File No. PMTT16-011) within the Regional Commercial/Mixed Use district (Planning Area 8A) of the Rich-Haven Specific Plan, located on the south side of Ontario Ranch Road, between Mill Creek Avenue and Hamner Avenue. The environmental impacts of this project were previously analyzed in an addendum to the Rich-Haven Specific Plan EIR (SCH# 2006051081) that was adopted by the City Council on March 15, 2016. All adopted mitigation measures of the addendum shall be a condition of approval for the project and are incorporated herein by reference. The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plans (ALUCP) for ONT Airport. (APNs: 0218-211-12 and 0218-211-25); **submitted by GDIC-RCCD2-L.P. City Council action is required**

1. CEQA Determination

No action necessary – use of previous EIR

2. File No. PDA16-003 (Development Agreement)

Motion to recommend Approval/Denial

E. ENVIRONMENTAL ASSESSMENT AND SPECIFIC PLAN AMENDMENT FOR FILE NO. PSPA16-004: An Amendment to The Avenue Specific Plan (File No. PSPA16-004) to change the Land Use Designations for Planning Area 7 from Low Density Residential (2.1 to 5.0 DU/AC) to Low-Medium Density Residential (5.1 to 11.0 DU/AC) and to change Planning Area 11 from Medium Density Residential (11.1 to 25 DU/AC) to Low Medium-Density Residential (5.1 to 11.0 DU/AC) to allow for the transfer of 155 units from Planning Area 11 (225 DU) to Planning Area 7 (287 DU). The project sites are located at the northeast corner of Archibald Avenue and Ontario Ranch Road (Planning Area 7) and the southwest corner of Ontario Ranch Road and New Haven Drive (Planning

Area 11). The environmental impacts of this project were previously analyzed in an addendum to The Avenue Specific Plan EIR (SCH# 2005071109) that was adopted by the City Council on June 17, 2014. All adopted mitigation measures of the addendum shall be a condition of approval for the project and are incorporated herein by reference. The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plans (ALUCP) for ONT Airport. (APNs: 0218-201-18; 0218-201-39; 0218-201-42 and 0218-201-43); **submitted by Brookcal Ontario, LLC. City Council Action is required.**

1. CEQA Determination

No action necessary – use of previous EIR

2. File No. PSPA16-004 (Specific Plan Amendment)

Motion to recommend Approval/Denial

F. ENVIRONMENTAL ASSESSMENT AND DEVELOPMENT CODE AMENDMENT REVIEW FOR FILE NO. PDCA16-007: A Development Code Amendment revising provisions of Development Code Chapter 5.0 (Zoning and Land Use) pertaining to Accessory Dwelling Units (formerly referred to as Second Dwellings), to incorporate recent changes in the State's Accessory Dwelling Unit laws (as prescribed in Senate Bill 1069, and Assembly Bills 2299 and 2406). The proposed Development Code Amendment is exempt from the requirements of the California Environmental Quality Act (CEQA) and the guidelines promulgated thereunder, pursuant to Section 15061(b)(3) of the CEQA Guidelines. The project is located within the Airport Influence Area of Ontario International Airport, and was evaluated and found to be consistent with the policies and criteria set forth within the Ontario International Airport Land Use Compatibility Plan; **City Initiated. City Council action is required.**

1. CEQA Determination

No action necessary – Exempt: CEQA Guidelines Section § 15061(b)(3)

2. File No. PDCA16-007 (Development Code Amendment)

Motion to recommend Approval/Denial

HISTORIC PRESERVATION ITEMS

G. ENVIRONMENTAL ASSESSMENT AND CERTIFICATE OF APPROPRIATENESS REVIEW FOR FILE NO. PHP16-020: A Certificate of Appropriateness to construct a 641 square foot addition and exterior improvements to an existing 917 square foot single family residence, a Contributor to the Rosewood Court Historic District, located at 319 East Rosewood Court, within the LDR-5 (Low Density Residential – 2.1 to 5.0 DUs/Acre). The project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section

15331 (Historical Resource Restoration/Rehabilitation). (APN: 1048-063-20); **submitted by Grant Mackay.**

1. CEQA Determination

No action necessary – Exempt: CEQA Guidelines Section § 15331

2. File No. PHP16-020 (Certificate of Appropriateness)

Motion to Approve/Deny

MATTERS FROM THE PLANNING/HISTORIC PRESERVATION COMMISSION

- 1) Old Business
 - Reports From Subcommittees
 - Historic Preservation (Standing):
- 2) New Business
- 3) Nominations for Special Recognition

DIRECTOR'S REPORT

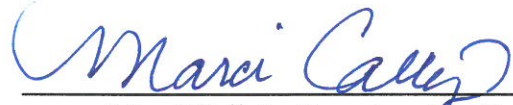
- 1) Monthly Activity Report

If you wish to appeal any decision of the Planning/Historic Preservation Commission, you must do so within ten (10) days of the Commission action. Please contact the Planning Department for information regarding the appeal process.

If you challenge any action of the Planning/Historic Preservation Commission in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Planning/Historic Preservation Commission at, or prior to, the public hearing.



I, Marci Callejo, Administrative Assistant, of the City of Ontario, or my designee, hereby certify that a true, accurate copy of the foregoing agenda was posted on **Friday, February 24, 2017**, at least 72 hours prior to the meeting per Government Code Section 54954.2 at 303 East "B" Street, Ontario.



Marci Callejo, Secretary Pro Tempore



Scott Murphy, Planning Director
Planning/Historic Preservation
Commission Secretary

**CITY OF ONTARIO PLANNING COMMISSION/
HISTORIC PRESERVATION MEETING**

MINUTES

January 24, 2017

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**CITY OF ONTARIO PLANNING COMMISSION/
HISTORIC PRESERVATION MEETING**

MINUTES

January 24, 2017

REGULAR MEETING: City Hall, 303 East B Street
Called to order by Chairman Willoughby at 6:40 PM

COMMISSIONERS

Present: Chairman Willoughby, Vice-Chairman Downs, DeDiemar,
Delman, Gage, Gregorek, and Ricci

Absent: None

OTHERS PRESENT: Planning Director Murphy, City Attorney Rice, Principal Planner
Wahlstrom, Principal Planner Zeledon, Senior Planner Noh,
Associate Planner Burden, Assistant City Engineer Do, and
Planning Secretary Callejo

PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was led by Commissioner DeDiemar.

ANNOUNCEMENTS

Mr. Murphy stated Items C and D will have one combined presentation.

PUBLIC COMMENTS

No one responded from the audience.

CONSENT CALENDAR ITEMS

A-01. MINUTES APPROVAL

Special Planning/Historic Preservation Commission Meeting Minutes of December 19, 2016,
approved as written.

A-02. ENVIRONMENTAL ASSESSMENT AND TIME EXTENSION REVIEW FOR

FILE NO. PMTT14-020: A one-year Time Extension of the expiration date for the
approval of File No. PMTT14-020, a Tentative Parcel Map (PM 19552) to subdivide a
0.20-acre parcel of land into a single parcel for condominium purposes, located on the
west side of Euclid Avenue, approximately 450 feet north of Elm Street, at 1420 South
Euclid Avenue, within the MDR18 (Medium Density Residential – 11.1 to 18.0
DU/Acre) zoning district and EA (Euclid Avenue) Overlay district. The proposed project

is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15315 (Class 15, Minor Land Divisions) of the CEQA Guidelines. The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT), and was evaluated and found to be consistent with the policies and criteria of the ONT Airport Land Use Compatibility Plan (ALUCP). (APN: 1050-051-01); **submitted by Johnathan Ma.**

PLANNING COMMISSION ACTION

It was moved by DeDiemar, seconded by Downs, to approve the Special Planning Commission Minutes of December 19, 2016, and File No. PMTT14-020 as written. The motion was carried 7 to 0.

PUBLIC HEARING ITEMS

- B. ENVIRONMENTAL ASSESSMENT AND TENTATIVE TRACT MAP REVIEW FOR FILE NO. PMTT16-020:** A Tentative Tract Map (TT 20061) for Condominium Purposes to subdivide 14.62 acres of land into 4 numbered lots and 23 lettered lots within the Medium Density Residential (MDR) and Low Density Residential districts of Planning Area 11 of The Avenue Specific Plan, located at the southwest corner of Ontario Ranch Road and New Haven Drive. The environmental impacts of this project were previously analyzed in an addendum to The Avenue Specific Plan EIR (SCH# 2005071109) that was adopted by the City Council on June 17, 2014. All adopted mitigation measures of the addendum shall be a condition of approval for the project and are incorporated herein by reference. The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plans (ALUCP) for ONT Airport. (APNs: 0218-462-80 and 0218-513-24); **submitted by Brookcal Ontario, LLC.**

Senior Planner, Henry Noh, presented the staff report. Mr. Noh gave general background of the project and surrounding areas stating the property is currently vacant. He said the applicant is requesting approval to subdivide this parcel into 4 multi-family numbered lots for condominium purposes which will allow the construction for 153 rowtown units. He stated the map includes 23 lettered lots including private alleys, streets, landscaped areas and the neighborhood park. Mr. Noh gave the sizes of the lots and explained the development plan will come before the Commission the following month. He shared they have previously approved some of the product from the New Haven community and in addition Brookfield is introducing a new product which is similar to the Holiday home. He stated that staff is recommending the Planning Commission approve File No. PMTT16-020, pursuant to the facts and reasons contained in the staff report and attached resolution, and subject to the conditions of approval.

Mr. Gage asked what has changed, if anything, from The Avenue Specific Plan since 2014.

Mr. Murphy stated that this area has always been identified in the specific plan as a multifamily development. He said within the specific plan it allows for development of townhomes and condominiums within that designated area. Mr. Murphy explained that

what the Applicant is proposing is a condo map which is the precursor to a development plan of condominiums, which will follow, that the Commission will see.

PUBLIC TESTIMONY

Derek Barbour, representing Brookfield Residential appeared and spoke. He stated it's an honor to be there and he thanked staff for getting them to that point. He shared this project is a continuation of their New Haven Master Plan and it's been a labor of love. He stated they have had a lot of success since they opened in September of 2015 and this is the meat of the market for them, the affordable market which has been very successful for them, selling at over two a week. He said this is supplying the housing which is needed out there and they are very excited to bring it forward. He shared future parks and retail in the New Haven areas. He stated he would take any comments or concerns.

Mr. Downs asked what the average price of the units would be.

Mr. Barbour stated he wasn't able to speak openly about pricing, but they try to stay under the FHA limits, which are currently about \$367,000.

Mr. Willoughby asked how many units have been constructed within New Haven.

Mr. Barbour stated that since opening until the end of 2016, they closed 164 homes, with 91 being the Holiday, 31 of Summerset, and 52 of the Waverly. In total, they have sold 233 homes. He stated they are now targeting about 273 homes for 2017. He said that they hope to have 423 homes closed by the end of 2017.

As there was no one else wishing to speak, Chairman Willoughby closed the public testimony

There was no Planning Commission deliberation.

PLANNING COMMISSION ACTION

It was moved by Delman, seconded by Gregorek, to adopt a resolution to approve the Tentative Tract Map, File No. PMTT16-020, subject to conditions of approval. Roll call vote: AYES, DeDiemar, Delman, Downs, Gage, Gregorek, Ricci, and Willoughby; NOES, none; RECUSE, none; ABSENT, none. The motion was carried 7 to 0.

C. ENVIRONMENTAL ASSESSMENT AND GENERAL PLAN AMENDMENT REVIEW FOR FILE NO. PGPA16-006:

A City initiated request to:

- 1) Modify the Land Use Element of The Ontario Plan (General Plan) to change the land use designations shown on the Land Use Plan Map (Exhibit LU-1) for various parcels located throughout the City, including: a) the area generally located from Euclid to Bon View Avenues between State and Philadelphia Streets, b) the area south of the I-10 Freeway, generally located near Fourth Street and Grove Avenue, c) the properties on the west side of Vineyard Avenue between Philadelphia Street and SR-60 Freeway, and d) the elimination of the SoCalf Overlay within the Ontario Ranch area;

- 2) Modify the text in the Land Use Designation Summary Table (Exhibit LU-02) to eliminate the SoCalf Overlay and allow the Commercial Transitional Overlay in non-residential locations;
 - 3) Modify the Future Buildout Table (Exhibit LU-03) to be consistent with the land use designation changes; and
 - 4) Modify the Environmental Resources Element text in Section ER5, Biological, Mineral & Agricultural Resources to eliminate all references to SoCalf.
- Staff is recommending the adoption of an Addendum to an Environmental Impact Report (State Clearinghouse No. 2008101140) adopted by City Council on January 27, 2010 in conjunction with File No. PGPA06-001. The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT), and was evaluated and found to be consistent with the policies and criteria of the ONT Airport Land Use Compatibility Plan (ALUCP). (Cycle 1 General Plan Amendment for the Land Use and Environmental Resources Elements for 2017) (APNs: Various); **City initiated. City Council action is required.**

D. ENVIRONMENTAL ASSESSMENT AND ZONE CHANGE REVIEW FOR FILE NO. PZC16-004: A City initiated request to change the zoning designations on various properties mainly concentrated in the mostly residential area to the east of Euclid Avenue between State and Philadelphia Streets with additional areas including the commercial and residential area around Fourth Street and Grove Avenue in order to make the zoning consistent with The Ontario Plan (TOP) land use designations of the properties. The environmental impacts of this project were previously analyzed in an Environmental Impact Report (State Clearinghouse No. 2008101140) adopted by City Council on January 27, 2010 in conjunction with File No. PGPA06-001. The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT), and was evaluated and found to be consistent with the policies and criteria of the ONT Airport Land Use Compatibility Plan (ALUCP). (APNs: Various); **City initiated. City Council action is required.**

Associate Planner, Clarice Burden, presented the staff reports. Ms. Burden began with Item C and stated that the General Plan Amendment and Zone Change projects were introduced to property owners at community open houses that were held November 29 and 30, 2016. She stated at the time of those meetings, no opposition was raised for the General Plan. She stated that since that time, written correspondence have been received stating opposition for three properties in Group E-24 and those written communications have been provided to the Commission tonight. She pointed out these properties are located on Fifth Street. She said that staff is recommending the General Plan change to Low Density Residential (LDR) from the existing Medium Density Residential (MDR) to match the existing (LDR-5) zoning and existing development in the area. Ms. Burden stated that the zone change program will provide consistency with the General Plan. She stated that staff had received written requests that these properties be removed from the proposed General Plan Amendment and be kept as Medium Density Residential. Moving on to Item D, Ms. Burden went over the eight area maps within the staff report, explaining current zoning and proposed zoning changes within each of those specific areas. She again stated that the goal has been to have zoning consistency with the General Plan which was adopted in 2010. She stated that staff is requesting the Planning Commission recommend approval to City Council for adoption of an Addendum to a previous EIR and File Nos. PGPA16-006 and PZC16-004, pursuant to the facts and

reasons contained in the staff reports and attached resolutions.

Mr. Downs questioned the school district owned property (Group G-5) and what the proposed zoning would be.

Ms. Burden stated the proposed zoning is General Industrial which in with keeping with the actual land-use of the property.

Mr. Downs questioned if the school district ever chose to sell the property, a developer would have to develop the property according to the General Industrial zoning.

Ms. Burden stated that was correct. Civic zoning is very limited on the types of uses, but the bus yard would transition to a private owner much easier for industrial uses.

Mr. Ricci asked about Group E-24 and the property specifically on Fifth Street. He questioned the options for development of Medium Residential since Fifth Street ends at the freeway.

Ms. Burden stated that it was her understanding that the property owner owned [three properties] and none of them went through to Princeton. She said ultimately, if a project came in that had additional access points, a consideration could be made at that time for a Medium Density Residential (MDR) project. She said with a single access point, through the single-family residential neighborhood, it is staffs opinion that Low-Density Residential (LDR) would be appropriate to the area.

Mr. Ricci clarified that to make it MDR, the properties that face onto Princeton must be obtained to make another entry way.

Mr. Murphy stated this would make the most sense overall from a development standpoint. He said right there now are five or six different property owners and staff has received a letter from one of them asking that the MDR zoning remain. If all the property owners down to Princeton came together that would be different. He stated that the second access is needed from the Fire Department so there's not just one coming off of Fifth Street. He said as one large property, there would be more options and flexibility for development. Currently, as five small properties, it's more difficult to development.

Ms. DeDiemar questioned Group E-24 again. She asked about a certain area (dog-legged parcel), within that group, how many of the properties had residents on them and how many were currently vacant that go between Fifth Street and Princeton.

Ms. Burden pointed to each parcel and pointed out which ones were vacant and which one had a residential house. She also pointed out that the white area on the slide was a "paper street" which meant it is not actually constructed.

Ms. DeDiemar asked if the single-family house was currently occupied.

Ms. Burden stated to her knowledge it was occupied.

PUBLIC TESTIMONY

Kevin and Linh Fini, residents from 1128 East Fifth Street appeared and spoke (Group E-24). Mr. Fini stated he wanted to give his support for the Medium Density Residential and that it would be an opportunity for affordable new construction in the area. Ms. Fini said she wanted to speak in support of Medium Density Residential.

Ken Froklus, a resident from 1714 South Palmetto Avenue, appeared and spoke. Mr. Froklus stated he wanted to echo the previous speaker. He stated he also would like to see more development in that area.

Ivan Albarran represented his parents, and also resides at 1126 East Fifth Street. Mr. Albarran stated since he lives with his parents, he knows that they have always had in the back of their mind to build out and that some of their neighbors are thinking of changing their [properties] to Medium Density. He stated he thinks it's a good idea. He said that he honestly thinks that area in general is going downhill, since Fifth Street doesn't go past the freeway, the open lot has a lot of homeless individuals there. He stated there have been problems with homeless and drugs and if the land was put to use, they would have less of that problem. He said he thinks it needs capital for that area for development. He said that he know his parents would be willing to work with some their neighbors and he has spoken with some of their neighbors and they have expressed their willingness to either sell some of their land or work with one of the investors who is willing to propose some of the changes. He said his parents would like to piggyback onto her proposed changes. He stated she does a plan to convert that "paper street" into an actual street. He said he supports Medium Density Housing.

Michael Duong, stated he resides at 12899 Rock Crest Lane in Chino Hills has part ownership in the group with the "paper street" previously discussed [E-24 group]. He stated they have had plans to redevelop that area into Medium or Medium-High Density Residential. He said in 2010 the zoning and General Plan had changed to further allow for that and he is there to make sure project stays consistent with the General Plan. He wanted to make sure the zoning doesn't go back to the Low-Density Residential. He said that would put up a barrier to further development. He stated this area is under the I-10 FWY, which suppresses single-family home prices and not a lot of people want to live under a freeway because of the noise and pollution. He stated this would be a great opportunity for an apartment building or condominium use, some kind of high-density residential project. He shared again, that he is part of the ownership group and he is a developer with experienced network and would have the capital. He shared he certainly has the interest to develop the area. He stated the idea is to provide more housing to the City of Ontario, suppress rents, and provide more property taxes coming into the city. He said he really sees it as two choices: 1) leaving it as is or 2) having new money come in and have the neighborhood be reinvigorated. He said he thinks the biggest concern right now is the traffic, but they do have plans to improve ingress and egress to that site and they're more than willing to work with their neighbors to make that happen. He stated again, that he hopes to keep the current plan consistent with The General Plan and allow them the opportunity to redevelop.

Mr. Willoughby questioned the "paper street" and which parcel(s) his family owned.

Mr. Duong stated the top three parcels on the top right along the “paper street”.

Mr. Murphy clarified, on either side of the “paper street”.

Mr. Gage questioned what the ideas were he had regarding egress.

Mr. Duong stated he didn’t want to currently disclose it, but zoning was step one and then they would work with the City and Planning to build out those plans. He stated they are in motion and they are real tangible plans to make it work.

Mr. Willoughby questioned if it was his understanding at this point that there wasn’t a project which had been submitted to the City as far as plans.

Mr. Duong stated that he has spoken with Principal Planner, Rudy Zeledon in August of 2015 to possibly discuss the project going forward. He stated at the time they were working on zoning and they are working on their capital. He said what he recalls of the conversation is that he thought the City would support it if they came forth with a real tangible plan which they are working on and it is forth coming in the very, very near future.

Mr. Delman questioned if he [Mr. Duong] had spoken with the property owner that of the “L-shaped” parcel to see if it was possible to purchase it.

Mr. Duong stated they are in discussions.

Mr. Willoughby questioned the size of the two parcels which his family owns.

Mr. Duong stated he thought it was about one acre in total or a little bit more. He said the “paper street” makes the numbers a bit askew.

Ms. DeDiemar questioned the estimated amount of money of \$200,000 for building the street from 2003 presented in the written communication at the meeting. She wanted to know if that figure was still accurate.

Mr. Duong stated he did not have an answer to that and that another family member would be able to answer.

Gina Duong, stated she also resides at 12899 Rock Crest Lane in Chino Hills. She stated she co-owner the properties (APNs: 1047-451-22, 1047-451-23 and 1047-451-24) and specifically 1128 East Fifth Street. She read from her letter which was presented to the Commission, stating, “I am writing this letter request City Council to withdraw our properties from the unchanged zone Medium-Low Density Residential group E 24, change to be zone Medium-High Density.” She said in 2003, I bought her first vacant lot, which is half-acre, [property to the left]. She stated she tried to sub-divide into three lots and she took the idea to the Ontario Planning Department. She said that to build three new houses, she would be required to build a new street which would also require utilities and sewer, which would cost more than \$200,000 at the time and would be more now. She stated with the zoning changed to low-density, it would not be cost effective to build the 300-foot street. She shared there are problems with individuals cutting the fence,

homeless and trash problems where the street sweepers are unable to clean. She stated she included photos of her property and the surrounding areas. She said in 2013 she bought another property adjacent to the first lot, which is 1128 East Fifth Street, which she paid \$50,000 over price because the city was going to change from low-density to medium-density. She stated in 2015 she bought another lot. Ms. Duong stated she had in total 1.15 acres. She said she talked with one of her neighbors and inquired about purchasing half of her property and to get an easement for the pipe needed for the sewer which needed to go through her property. She tried to explain why the neighbor would not work with her due to the expense of the project in prior years.

Mr. Willoughby stated her time was up and need to bring it to a close.

Ms. Duong stated she talked with Caltrans about the noise from the freeway and she said they would put up a block wall if there were plans for more homes or a multi-family project to block the sound. She said with all three properties and the “paper street”, she has 1.15 acres so they can propose for a 14-16 unit condo or townhouse project if the city planners can change zoning to a medium-high density. She said that whatever the cost for the project they are ready to go forward. She said her conclusion is to request the Commission to consider her proposal and withdraw her properties from the no zone change so they can propose a plan which is intended to be medium-high density.

Ms. DeDiemar questioned which three parcels she owned on the slide being presented.

Ms. Duong stated that was correct. She said she was still working with her neighbor on the south side at 1125 East Princeton to buy half of their property to make half her project more workable and have more ability to build. She said she can pay for the fee to buy that half and do the sub-divide and all the improvements.

Ms. DeDiemar questioned the idea of building the street with underground sewer and utilities is a possibility.

Ms. Duong stated yes. She said the idea has already been proposed to the current owner and he’s willing to work with her. She gave some background about the previous homeowner who was elderly and wasn’t willing to work with her, but now she’s speaking with a new homeowner.

Ms. DeDiemar confirmed they were speaking of the L-shaped parcel.

Ms. Duong said yes.

Mr. Gage asked for clarification on the current zoning as Medium Density and that the City is proposing Low-Density Residential, but the speaker is asking for Medium-High Density Residential.

City Attorney, Mr. Rice said he could explain. He said that what the City is proposing tonight is the General Plan designation is Medium-Density Residential, currently, and the zoning is Low-Density Residential, currently. What the City is trying to do is have the General Plan of Medium-Density match the zoning of Low-Density Residential. He said what the past speaker and the previous speakers have asked is that the Commission

remove their properties from that transition from Medium-Density to Low-Density on the General Plan. He explained, that there had been several requests for a Zone Change but that's not within their [Planning Commission] power to change the zoning for these properties from Low-Density to Medium-Density. He said there would have to be new noticing to everyone and that type of process. So what is in their [Planning Commission] power is removing their properties from the transition from Medium-Density to Low-Density.

Julie Duong, stated she resides at 1714 South Palmetto Avenue in Ontario. She said she came to speak to further add her support and keep the zoning at Medium-Density so her parents could improve the area. Ms. Duong said she's sure the Commission has seen the images which were included with the correspondence and she's sure they hear her mother and that she's very interested in improving the area. She said that was what she wanted to say.

Ernie Mastel, stated he owns the L-shaped property at 1125 East Princeton. Mr. Mastel stated he would like to see the zoning to be Low-Density. He said he doesn't plan to sell his property, he purchased it about two years ago and with that respect, he has a front house and grandfathered in second dwelling. He stated the other two adjacent properties, the [left side on slide] is considered a historic home. He said that property is currently in escrow. Mr. Mastel continued to say that the property to right [of his property] was recently purchased, about a month ago. He said there have been issues with homeless as previously mentioned, but he felt that was a different discussion for another time. He said that he felt further development of that street could help with the homeless. He said that he doesn't plan to sell or develop at this point.

Al Marchetti, stated he was an attorney, representing Josephine Reichmuth-Hunter who is the owner of the property of the G6 [left on the slide]. He stated it has been in her family for years and the home on the property was built by her grandfather in 1949, or at least that's the best guess. He said it has always been part of the Industrial zoning and General Plan since that time. He said it seems superfluous to make the change to Residential since it has always been zoned Industrial. Mr. Marchetti said it has been Industrial for many, many years and she [Ms. Reichmuth-Hunter] doesn't know why it needs to be changed now. He said it's been a house the whole time and he said for the information for the Commission, there is litigation attached to it right now. He stated there is a lis pendens and a dispute as to who is the owner of the property. He said to rezone it and make it Residential will seriously hamper any possible settlement of that property. He shared unless one party can buy out the other, and that possibility does not seem remotely possible. He said one of the most important parts they wanted to bring up, was long before the trucking facility which is there now, which is the property that surrounds it, was a lumberyard. He stated that it was zoned Industrial and it would be more beneficial to keep it that. He pointed out [on the slide], it's a different size than all the other properties so to keep it Industrial is best for all concerned. He said lastly, one of the common threads that was presented by staff, is to try and make the changes consistent. He said this one is not consistent. He said it's always been this way, leave it the way it is.

Josephine Reichmuth – She stated Al [Marchetti] spoke on her behalf.

Lynn McIlwain, a resident at East 206 Grevillea, came up to speak and contest the

change in zoning (Group G-12). Mr. McIlwain stated he likes the open and rural atmosphere of his neighborhood now and would hate to see it changed. He said he doesn't want to see the character of their neighborhood changed to a denser use. He stated he wants it to stay as it is. He shared that these are mainly half-acre plus lots and are used for small farms and that was why he bought his property, for that purpose and that agricultural land is disappearing all over. He said he would like to keep this zoning as an agricultural use. He stated that he thinks the City of Ontario should have a balance between urban and rural properties and he would hate to see us [the City] lose this rural, agricultural area. MR. McIlwain shared he supports FFA (Future Farms of America) organization, similar to 4-H Club; an organization which teaches kids about farming and the care of animals. He questioned where would kids go without places like this, these agricultural areas? He stated that property value will change with the zoning change to Low-Density Residential (LDR). He said the property value will lower because there will be no animal keeping allowed so there will be less use of the property. Thus, he requested to keep the G12 [map group] zoned as an agricultural use area.

Ms. DeDiemar asked what animals Mr. McIlwain has on his property.

Mr. McIlwain stated he doesn't have any right now, but he bought it for that purpose.

Ms. DeDiemar asked when he purchased the property.

Mr. McIlwain stated he thought about five years.

Mr. Gage asked the size of his lot.

Mr. McIlwain said it's a half-acre. He pointed [to the slide projected] and said the large rectangles are half-acre are larger.

Mr. Willoughby questioned if there currently were homes on all the lots.

Mr. McIlwain stated yes and there are horses and other animals on some of those properties, they are being used as an agricultural area.

Jose Arrellano, a resident at 937 South Taylor Avenue came up to speak with assistance from Sonia Alvarado, his loan officer/realtor. Ms. Alvarado stated that his property is changing to LDR-5 (Low-Density Residential) and there have been some issues brought up due to financing. She stated his property does not qualify for government financing to have a reverse mortgage. Ms. Alvarado said that since the City couldn't do a zoning verification letter that couldn't guarantee that if the house were to burn down more than 50% he can't finance a reverse mortgage. She said that she's tried to work with Rudy [Zeledon] and Richard [Ayala] and they've been very helpful, but because of the way the LDR-5 zoning guidelines are written, they cannot make that guarantee. She said that anything built over 50% would require a public hearing and the lenders don't like a public hearing because anyone could oppose a rebuild and what has been permitted. She said Mr. Arellano was there to request a letter to be rewritten for his home so he can receive a reverse mortgage stating if his home were to be burned more than 50% he could rebuild.

Mr. Murphy stated that staff has been in contact with Mr. Arellano and they have two structures on the property now. He said that under the Development Code requires a public hearing under this body [Planning Commission] for approval if the structure should burn down more than 50% and need to be rebuild. He said that's what is included in the letter and that is not acceptable to the lender because their concern was going to a public hearing left it to the discretion of the Planning Commission, but that's the way our current Development Code is written because it would be legal-non-conforming at that point.

Mr. Willoughby stated correct. He said there are two houses on that property.

Ms. Alvarado stated yes, there are two structures which are permitted and up to code. She said he had some code issues but everything has been paid and brought up to code and approved. She said the only issue at this point is the LDR zoning is not helping him finance his home and she stated that since most of the zoning was changing to LDR-5, most people would have problems with FHA financing, reverse mortgages and loans because of their houses burn, lenders will not want to finance them because their investment won't be any good, especially if it's more than 50%.

Mr. Murphy stated there was another option. If there are two units on the property, even under the Low Density Residential, you can have a single-family residential and a second-family dwelling unit. He stated there are limitations on the size of that, and the individual has to live on the property, but that would allow for a second unit on the property, it may not be as large as the original, but it would allow for a second unit. He explained that with current state law, it could be up to 1200 square feet, which is a decent size unit. He said there are provisions that would allow for two units that would not get him exactly what are on the property today, but would allow a second unit on the property.

Mr. Willoughby asked for clarification if this issue was something that could be fully addressed at the meeting tonight.

Mr. Murphy asked if their zoning was changed from AR to LDR.

Ms. Alvarado stated the zoning had already changed in that area and that's why they were having the problem because the lender asked for a letter. Ms. Alvarado read the language from the Zoning Verification Letter stating the structures are currently legal-non-conforming since the zone change to LDR-5 and that under the Development Code the a public hearing would need to be held for a rebuild to be approved if the structures were burned down more than 50%.

Mr. Murphy and Mr. Willoughby confirm that Mr. Alvarado's property at 937 S. Taylor is not part of the agenda (General Plan Amendment/Zone Change) that evening and they will not be taking any action on their issue.

Ms. Alvarado stated when they came in they were told they were part of this map group.

Mr. Willoughby stated he was sorry for the confusion.

Mr. Murphy stated that if she gave Mr. Zeledon her contact information, they would set-up a separate meeting.

Ms. Alvarado stated he [Mr. Zeledon] had her information and they were supposed to meet the next day.

Sonia Alvarado, a resident at 203 East Locust came up to speak. She stated she had a mortgage, paralegal, and notary license and was there with her father [Margarito Alvarado] who lives in Ontario. She said that she sees a problem with the zoning, specifically the LDR for homeowners in the future who are trying to buy with government loans and who will be requesting rebuild letters. She said it will not benefit the City of Ontario to change the zoning to where there will be public hearings when the lenders don't like that. Ms. Alvarado stated Agricultural (AR) areas are also going to be problematic. She said that Agricultural zoning have a higher value and changing it to LDR isn't good.

Mr. Willoughby asked Ms. Alvarado if she was referring her property at 203 East Locust.

Ms. Alvarado stated yes.

Mr. Willoughby asked for clarification if this property was part of the current zone change on the agenda for the evening.

Ms. Alvarado stated it was in Group G-12. She requested again that rebuild letters state a guarantee of 100% of what was permitted can be rebuilt if their structures were to burn down so lenders would approve for financing reasons. She said they aren't asking for modifications or additions, but at least 100% rebuild without any restrictions.

Margarito Alvarado, a resident at 203 East Locust came up to speak. He said he was the father of Sonia and asked that his property not be changed. That the "grandfather" law be applied.

John Ochoa, property owner of 903 and 911 South Euclid Avenue came up to speak (Group G-34). He stated he owns an auto repair stop on the southeast corner of Euclid Avenue and Mission Boulevard. Mr. Ochoa said he had spoken with Clarice at the Community Meeting regarding his issue. He said that the proposed zoning is to change from Community Commercial (CC) to Neighborhood Commercial (NC). He said his concern was because he has two options which he wanted to do. He shared that one option was to build a new facility and have a tire store, low maintenance with oil changes and the second option was if he could expand where he has Community Commercial (CC), next to the residential lot on the south and make one big lot. He wanted to have an AM/PM gas station, which he was already talking with, but his current location was too small. He told AM/PM he owned the lot to the south and they said if he would combine them, they would work with him towards permits and opening a business on the two lots. He stated he came to see if it was possible to make it or expand the zoning.

Mr. Murphy stated the lower property is designated residential and what Mr. Ochoa is requesting is that the zoning be extended to include that property to the south. He said it's a bit of a "chicken and egg". He explained that if AM/PM is interested they can come in,

look at the proposal and see if it makes sense and then we can see if we can change the zone for the whole thing. AM/PM is probably telling Mr. Ochoa, get the zoning changed and then we'll come in. Mr. Murphy stated that they have a use that's right up against Residential and the Neighborhood Commercial (NC) is more appropriate because it limits the uses more than general commercial does. But, he said if there was a proposal, he could look at it, evaluate it and see what makes sense.

Mr. Ochoa stated that he's still asking for assistance because if the zoning is changed to Neighborhood Commercial (NC), he would not be able to move forward with the option of a tire store because that use is not permitted under the NC zoning.

Mr. Willoughby asked for clarification that Mr. Ochoa would be able to use his current zoning for a business.

Mr. Murphy stated that was correct.

Mr. Willoughby stated that the business Mr. Ochoa has could still exist and operate.

Mr. Ochoa stated that he was not given that information. He said that if the zoning changed to Neighborhood Commercial (NC), he would not be allowed to put the tire store there.

Mr. Willoughby asked if he would establish a new business at that location.

Mr. Ochoa stated yes.

Mr. Willoughby stated that the existing business would not work under the current zoning.

Mr. Murphy said that typically with a tire store, you have the tire guns going off and with housing immediately next door, it's a nuisance factor that comes into play. He explained that was why the Neighborhood Commercial (NC) was deemed more appropriate for this location as opposed to the Community Commercial (CC).

Mr. Ochoa asked if the City would wait on the zone change for his lot until he came with approval from AM/PM to change the south lot to Neighborhood Commercial (NC).

Ms. DeDiemar questioned the proposed location for the AM/PM, and lot to the south for expansion. She also asked where the proposed location for the tire store would be.

Mr. Ochoa pointed [to the slide] where the locations were.

Mr. Willoughby clarified that if AM/PM came in, both Mr. Ochoa's lot would be used.

Mr. Ochoa stated that was correct.

Ms. DeDiemar asked what zoning was needed for the AM/PM store.

Mr. Ochoa said he understood the Neighborhood Commercial (NC).

Mr. Murphy stated that Neighborhood Commercial (NC) is the proposed zoning for that meeting. However, Mr. Ochoa's concern was if AM/PM does not work out, he would like to have a tire store which is not allowed in the Neighborhood Commercial (NC) zoning.

Ms. DeDiemar asked Mr. Ochoa how long he has been talking with AM/PM.

Mr. Ochoa stated a little over a year.

Ms. DeDiemar asked why they haven't made any moves.

Mr. Ochoa stated they haven't made any moves and he had some financial [franchise obligations] to get together to fully move forward.

Mr. Willoughby questioned the maps of Group G-33. He questioned if that was the Ontario Christian School property.

Ms. Burden stated yes.

Mr. Willoughby asked if all the lots in that area are a minimum of half-acre or are there some that are odd sizes.

Ms. Burden pointed out [on the slide] some parcels which had been sub-divided and stated they were not half-acre, but she believed the others were within that range.

Mr. Willoughby stated that there were several which would not fit that half-acre size.

Ms. Burden stated that was correct.

Mr. Willoughby asked for clarification that with the zone change, the use to have animals would still be permitted.

Ms. Burden stated that was correct.

Mr. Willoughby also stated that no matter the zoning, there are still distances to corrals.

Ms. Burden stated that was correct.

Mr. Gage questioned the proposed change from AR (Agriculture) to LDR (Low Density Residential) and the rebuild letter in regards to reverse mortgages, FHA and refinance loans. He asked if they all would have the requirement of needing to go to a Planning Commission meeting. He asked if this has always been the case.

Mr. Murphy stated that going from AR (Agriculture-Residential), which is a single-family residence and allows for animal keeping to LDR (Low Density Residential), which is single-family residential. He said if you have more than one unit on the property, regardless if it's AR or LDR, that would be considered legal-non-confirming and the same issue would come up regardless what the zoning is because the lender is going to want and see 100% rebuild potential, regardless of what the zone is. He explained the issues are not AR or LDR, but the issue is the lender wants 100% rebuild

and the City has said that if it's legal-non-conforming, and if it burns down more than 50%, the Planning Commission would have to review and approve that to build it exactly as it was. He stated that's been on the books for as long as he's been here [with the City of Ontario], which is 20 plus years.

Mr. Gage asked that what is being done tonight was changing the zoning, which makes the use legal-non-conforming.

Mr. Murphy stated that if someone has two units on their property, if it's AR, it's legal-non-conforming already. He said changing the zone isn't going to change that fact, it will still be legal-non-conforming. He said the lender is still going to want a 100% rebuild letter which we cannot issue without the caveat that the Planning Commission would have to approve it. He explained that this is where the lending institution issue lies, they do not want to have the discretion of the Planning Commission for fear that neighbors may come out and oppose the rebuild. In that case, they can only rebuild a single unit and not two units.

Mr. Gage asked if the AR properties are legal-non-conforming only if they have two units.

Mr. Murphy stated yes, only if they have two units on them.

Mr. Gage stated but most only have one unit, so they're not legal-non-conforming now.

Mr. Murphy stated he was correct and they would not be non-conforming under LDR, because LDR does allow a single-family residence. He explained that if they needed a rebuild letter today, we could issue one stating 100% because they only had one residence and a single-family residence is allowed is LDR.

Mr. Gage clarified that what they heard tonight was specific instance for a property owner and would not apply to all property owners who were going from the AR zone change to LDR and the public hearing would be for those who are legal-non-conforming.

Mr. Murphy stated that was correct.

As there was no one else wishing to speak, Chairman Willoughby closed the public testimony

Mr. Gage requested to see the G-6 property, he wanted to know the reasoning for changing the property to Residential.

Mr. Murphy stated that when The General Plan was adopted in 2010, this property was changed to a Residential land-use designation but zoning still remained as Industrial, but The General Plan was changed. He said the reason for that, was because there was a single-family residence on the property. Mr. Murphy said at this time what staff is doing is changing the zoning to be consistent with what the actual land-use of what the property is, which is Residential and that's consistent with everything which is east of the property. He stated that when you look at it as an Industrial piece of property, it is relatively small. He said there is additional dedication needed off the front, there is

already existing Industrial property to the south and to the west so when you look at an Industrial building going onto the property, it didn't seem like a viable use. He said he realizes Mr. Marchetti mentioned there was litigation and that definitely puts a different wrinkle into it, but from a purely land-use standpoint, the use is Residential and there is Residential immediately to the east and the size of the property would seem more appropriate for Residential use and that's why the recommendation is to continue forward with the zone change and make it consistent with The General Plan.

Mr. Gage asked if his opinion has changed since he's heard there's litigation.

Mr. Murphy said he's looking at from a land-use point of view. He stated the litigation is certainly a wrinkle which makes the ownership more complicated, but he's looking at it strictly from a land-use perspective, which is what he's charged with doing. He said, economics and ownership are separate issues, but the appropriate land-use seems to be Residential.

Mr. Willoughby questioned the size of that property.

Mr. Murphy stated it's about 10,000 square feet.

Mr. Willoughby stated not even a quarter of an acre.

Mr. Murphy stated that when you look at the Industrial standards, the maximum floor area is .55, so if it's currently 10,000 square feet that would give a maximum of a 5,500 square foot building that could be built.

Ms. DeDiemar stated that Mr. Marchetti stated the property had been in the family since 1949, but always had Industrial zoning. She asked how a single-family residence got built there.

Mr. Murphy stated that he doesn't know how far back the Industrial zoning goes. He said that he does know that in 1992, there were a number a number of changes made to The General Plan at that time and there were areas that were identified that were supposed to transition to Residential but they never did. He said he really didn't know where the zone change to Industrial occurred.

Ms. DeDiemar said that Mr. Marchetti may have been mistaken when he said that it's always been Industrial zoning. She said it may have been something else.

Mr. Murphy said he has to believe it was something else and at some point it was Residential and as Industrial started coming into the area, it made sense that the whole area would transition and would change into Industrial. He said it is impacted by the airport and in those areas it is typical to transition from Residential to Industrial. He stated that in this case there is an Industrial-Overlay on the property so there's a Residential underlying with an Industrial-Overlay. He said that if a developer were to come in and take over that block, they could build Industrial. But, right now it's Residential so they're trying to protect the residents which are there.

Ms. DeDiemar asked if the Industrial properties surrounding are also a different owner.

Mr. Murphy stated that was correct.

Mr. Willoughby stated that he would think that when the residence was built, the surrounding properties were farmland and not general industrial businesses.

Mr. Murphy stated that when the airport was at its peak, the whole area was impacted by noise and again, the whole idea was to transition from Residential to Industrial to move the residents out so they're not under the flight path.

Mr. Downs asked what types of business surround those two properties.

Mr. Murphy stated DHE, which is a logistics type of business and they have trucks coming in and out.

Mr. Gage questioned the Fifth Street property [Group E-24]. He stated that it's currently zoned Medium-Density Residential and we are proposing to make it Low-Density Residential. He wanted to know what would need to take place for the speakers who proposed a possible plan to have a High-Density Residential (HDR) plan to have their property changed to HDR. He wanted to know if passing the Low-Density Residential land-use would make it more difficult for them in the future to change to High-Density Residential zoning.

Mr. Murphy stated that first of all, the General Plan designation is Medium-Density Residential which would allow up to 25 units to the acre. He said to his knowledge there has been no discussion to change it to High-Density which would take it up to 25-45 units to the acre. He said that if the Commission chose to leave it as it is, the [property owner(s)] could come in and propose a project which could be up to 25 units to the acre on that property. He stated there were some "words" which were concerning, like having to get "sewer easements through adjacent properties", those can be problematic. He said obviously, the larger the property you have to work with, the easier. But, when you have smaller pieces, it can be problematic when meeting all the code requirements and parking requirements. He said, but it can be done. He stated if the gentleman who lived to the south had shared he was "willing to work with the neighbors to the north", that might have been helpful because now you might have another point of access into the larger development. Mr. Murphy said without it definitely is more challenging. He also stated that this has not yet been looked at from the perspective of the Fire Department and with one point of access, but right now that would be a concern for them. He said there are a lot of variables that would need to be looked at, but certainly, the larger the better to build on. Mr. Murphy, said specifically to answer the question about going from MDR to LDR, he doesn't see it as difficult to change if there was a project that came forth. However, he said that he would think a number of developers would disagree with that answer and say it would be more difficult to change the once it was lowered.

Mr. Willoughby stated that they have seen it done before [zone change] and it's not abnormal. He wanted to clarify if they [property owner(s)] came in with a plan, the City would look at that and consider it and as long as it meets all the requirements it's something they could do.

Mr. Murphy stated yes, it's certainly something we could look at it and evaluate. We

would see if it's the right project for that area. He said if it's the Commission's desire to leave the General Plan alone, they would still have to come back with a Zone Change to be consistent with the Medium-Density Residential.

Ms. DeDiemar stated, relating to the same area, the property owner who owned the L-shaped piece stated there was a historic home in escrow directly to the west. She questioned how is that figured into calculation.

Mr. Murphy stated that first they would need to find out the historic significance of the home. He said he thought off-hand it was built in the late teens, early twenties but couldn't say what condition the structure was in, but that would have to be looked at.

Ms. DeDiemar asked if the structure has a historical designation.

Mr. Murphy said he didn't know off-hand, but certainly, that is something that could be looked into and possibly converted into the "rec building" for a complex. He said there could be a number of options that could be looked at.

Ms. DeDiemar asked for clarification that the property to the south, is not in agreement and available to Princeton for development.

Mr. Murphy stated that he didn't know if they were in disagreement, but Mr. Mastel [the property owner] stated he has no plans to develop the property or sell it.

Ms. DeDiemar said that essentially makes the Duong's property land-locked for the purposes of a Medium-Density development.

Mr. Murphy stated it makes it more difficult for them to build. He reiterated it is now a smaller piece of property, they have one point of access, and it is next to the freeway. He said it doesn't preclude Medium Residential on that northerly piece, it just makes it more challenging.

Mr. Downs questions what the green property [on the slide] is to the east.

Mr. Murphy states it's the flood control basin on the north side of Princeton.

Mr. Downs asked about sound control from the freeway.

Mr. Murphy stated there is a portion of the property that has a sound wall to the freeway across it, but it does not extend the full length. He said the freeway itself is elevated above the property and the wall is elevated up at that location.

PLANNING COMMISSION ACTION

It was moved by Delman, seconded by Gregorek, to recommend adoption of the CEQA Determination and Addendum to a previous EIR for File No. PGPA16-006. Roll call vote: AYES, DeDiemar, Delman, Downs, Gage, Gregorek, Ricci, and Willoughby; NOES, none; RECUSE, none; ABSENT, none. The motion was carried 7 to 0.

It was moved by Downs, seconded by Delman, to recommend adoption of a resolution to approve the General Plan Amendment, File No. PGPA16-006. Roll call vote: AYES, DeDiemar, Delman, Downs, Gage, Gregorek, Ricci, and Willoughby; NOES, none; RECUSE, none; ABSENT, none. The motion was carried 7 to 0.

It was moved by Gregorek, seconded by Ricci, to recommend adoption of a resolution to approve the Zone Change, File No. PCZ16-004. Roll call vote: AYES, DeDiemar, Delman, Downs, Gage, Gregorek, Ricci, and Willoughby; NOES, none; RECUSE, none; ABSENT, none. The motion was carried 7 to 0.

- E. ENVIRONMENTAL ASSESSMENT AND ZONE CHANGE FOR FILE NO. PZC16-005:** A City initiated request to change the zoning designations (File No. PZC16-005) on 51 properties from: 1) MDR-18 (Medium Density Residential) to HDR-45 (High Density Residential), 2) MDR-25 (Medium-High Density Residential) to HDR-45 (High Density Residential), and 3) CN (Neighborhood Commercial) to HDR-45 (High Density Residential with ICC (Interim Community Commercial Overlay)). The properties are generally located south of D Street, west of Vine Avenue, north of Vesta Street and east of San Antonio Avenue in order to make the zoning consistent with The Ontario Plan land use designations of the properties. The environmental impacts of this project were previously analyzed with The Ontario Plan EIR (SCH# 2008101140) that was adopted by the City Council on January 27, 2010 and was prepared pursuant to the requirements of California Environmental Quality Act. All adopted mitigation measures of the EIR shall be a condition of approval for the project and are incorporated herein by reference. The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT), and was evaluated and found to be consistent with the policies and criteria of the ONT Airport Land Use Compatibility Plan (ALUCP). (APNs: 1048-581-01 thru 09, 11-12, 17, 33, 35-36, 39-45, 48-59, 62, and 67-82); **submitted by: City of Ontario. City Council action is required.**

Senior Planner, Henry Noh, presented the staff report. Mr. Noh stated that the proposed zone change affects 51 properties and he gave the background to when the City updated the land-use and zoning in 2010. He explained it was at that time the current zoning was changed to High-Density Residential (HDR) which is 25 units to acre. Mr. Noh stated the zone change was initiated by the development plan which will follow this item, which is a 14-unit apartment complex. He explained the three different zone-changes and their appropriate properties being proposed, the first are 34 properties from MDR-18 (Medium Density Residential) to HDR-45 (High Density Residential), second are 16 properties from MDR-25 (Medium-High Density Residential) to HDR-45 (High Density Residential), and third, one property from CN (Neighborhood Commercial) to HDR-45 (High Density Residential) with ICC (Interim Community Commercial) Overlay. He stated staff held a Community Open House on December 4, 2016 and all individuals who attended were in favor of the zone change, but they shared comments about the existing impacts like parking along Vesta Street. Other concerns included homeless as a safety issue and additional stop signs along Vesta Street. He stated that staff is requesting the Planning Commission recommend approval to City Council for File No. PZC16-005, pursuant to the facts and reasons contained in the staff report and attached resolution.

Mr. Gage stated they are proposing to go from MDR (Medium-Density Residential) to HDR (High-Density Residential) and it was stated that there's parking on Vesta and problems with the park. He asked how does it benefit the City to make it a higher density area.

Mr. Murphy stated that when they looked at this block in its entirety, from 'D' Street to Vesta, from San Antonio to Vine, what was found was that most of the projects that were developed in that area, were are in the HDR-45 category already. He said they were already built at that density. He said there were only a couple of projects that were built less than 25-units to the acre. He said the zoning they are proposing is really only reinforcing what already exists and they are making it consistent with what is already out there. He said from that standpoint, they are actually eliminating some non-conformities. Mr. Murphy said the issues with parking on Vesta, as they've seen over the years, if there isn't a good management company who isn't actively enforcing the garage spaces, they become nothing more than storage. So, the parking begins to spill over into adjacent neighborhoods. He said that's up to us [Code Enforcement] to get people off the street, but that's a condition that's there and the zone change isn't going to change that. Mr. Murphy explained when looking at the west side of Euclid it was also seen as an incentive to help redevelop some of the properties which are already out there and a reflection of what is on the ground today.

Mr. Gage asked about the L-shaped property and if that is currently MDR and going to HDR. He also asked if they [Planning Commission] recently approved the condominium project to improve the neighborhood.

Mr. Murphy stated there were two different things they're looking at. First, he said is the land-use and density that is out there. He said the land-use and density is in excess to 25-units to the acre on many of the properties that are out there. He said there's a second component that when these properties were built they did have the same parking and open space standards that are in place today. He explained when you start to look at the open space standards and parking requirements that we have today, management and design, and this will be seen when the next item comes up, there is a design that will improve the area and is an asset to the area. Mr. Murphy stated with the HDR-45 there's a hope a new project would come in and scrape what's there and start brand new with current standards instead of following standards from the 70s.

Mr. Gage questioned that there's a better chance that will happen with the higher density than the medium density.

Mr. Murphy stated yes, there's definitely a better chance because if [a developer] is scraping what's out there and building the same, which is Medium-Density, there has to be something which incentivizes and that's High-Density, that's additional revenue.

PUBLIC TESTIMONY

No one responded.

As there was no one else wishing to speak, Chairman Willoughby closed the public testimony

Mr. Gregorek stated the staff report was clear.

PLANNING COMMISSION ACTION

It was moved by Gregorek, seconded by Downs, to recommend adoption of a resolution to approve the Zone Change, File No. PZC16-005. Roll call vote: AYES, DeDiemar, Delman, Downs, Gage, Gregorek, Ricci, and Willoughby; NOES, none; RECUSE, none; ABSENT, none. The motion was carried 7 to 0.

- F. **ENVIRONMENTAL ASSESSMENT AND DEVELOPMENT PLAN FOR FILE NO. PDEV16-005:** A Development Plan to construct a 14-unit apartment project on a vacant 0.54 acre parcel of land, located at 607 West D Street, within the Medium-High Density Residential (MDR-25) zone (proposed High Density Residential (HDR-45) – Related File No. PZC16-005). The environmental impacts of this project were previously analyzed with the Diamante Terrace Condominium EIR that was adopted by the Planning Commission on March 28, 2006 and was prepared pursuant to the requirements of California Environmental Quality Act. All adopted mitigation measures of the EIR shall be a condition of approval for the project and are incorporated herein by reference. The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT), and was evaluated and found to be consistent with the policies and criteria of the ONT Airport Land Use Compatibility Plan (ALUCP). (APN: 1048-581-07); **submitted by: 607 West, LP.**

Senior Planner, Henry Noh, presented the staff report. Mr. Noh gave background on the vacant project site which is surrounded by both multi-family and single-family residents and a Tier-II historically eligible single-family residence. He shared various views of the project site and its surrounding areas for a point of reference. He stated the applicant has proposed a two-story L-shaped building and went over the points of access for the property. He went over the three floor plans, bedroom sizes, landscape and parking requirements, which is 29 parking spaces for the project, including tandem parking spaces. Mr. Noh stated that staff has added conditions to the project that a single-car garage and tandem space would be assigned per two-bedroom units and they would have a maximum of two cars per unit. He said a maximum of one car with carport per unit for the one bedroom and studio units. Mr. Noh stated that there is a caveat that if there are extra spaces available, with approval from the property management, a one-bedroom or studio resident could have an extra space. He also stated that visitor parking is limited to 24-hours. He also went over the architecture and various slides showing the elevations of the project. He stated that staff is recommending the Planning Commission approve File No. PDEV16-005, pursuant to the facts and reasons contained in the staff report and attached resolution, and subject to the conditions of approval.

Mr. Gage questioned the parking conditions, why did staff feel the need for them.

Mr. Noh stated that its staff's belief to provide conditions to help regulate parking in case there should be problems with parking in the future. He said this provides the City with some teeth and Code Enforcement, per se, that there are conditions that state there are two cars maximum for the two-bedroom units and one car for the one-bedroom units. It helps provide extra protection and helps to mitigate the off-street parking that might exist in the general area.

Mr. Gage stated that they are forecasting not enough parking for the fourteen units.

Mr. Murphy stated that he thinks the bigger issue is that when you start doing the calculations for a two-bedroom unit or one-bedroom unit, the parking for a one-bedroom unit is 1.5 spaces. How are you going to split up half a space? The idea is you go in and limit the one-bedroom unit to one car or the two-bedroom unit to two cars so they don't pop in a third car and take one of the one-bedroom spaces and we end up with a deficit. He said it is a way to give us a little more teeth because it is a relatively small site and they don't have a whole lot of flexibility and can't go above and beyond. He said there is street parking, but there have already been concerns about that from other projects so we want to minimize that concern. So by putting the conditions in there and trying to police it, hopefully we go in there and not have any problems.

Mr. Willoughby asked about the intersection at Beverly Court and if there is any walk or gate access onto Beverly Court.

Mr. Noh stated there will be a wall around the perimeter.

Mr. Willoughby asked in the common area where there are tables, will there be a barbeques?

Mr. Noh stated he believed so, but the Applicant could better address that question.

PUBLIC TESTIMONY

William Lee, the Applicant for 607 West, LP appeared and spoke. He stated they are just a few blocks west of the downtown Ontario area and stated there is a lot of retail potential and the zoning is Medium to High Residential. He stated they designed it with that in mind, some energy to the neighborhood and some walkability to downtown in the future once the retail develops further. He said it was challenging to comply with all the open space and parking requirements of the Development Code but with the Planning Department's help they have been working for several months on coming up with the plan and it's a good plan which makes economic sense it's something that will benefit the community and hopefully be an incentive to his neighbors to be an investment into their properties. He said he would be available to answer any questions the Commission might have.

Mr. Willoughby reiterated his question about the barbeques.

Mr. Lee stated there will be a water feature, benches, and he hadn't made a final decision about a barbeque; but it would sense because it will be an enclosed closed courtyard. He explained how the courtyard will be closed and secured from the public for the tenants of the building.

Mr. Gage asked staff to put up the slide of the north elevation and questioned the "blue door", if that was the entrance.

Mr. Lee explained that was a water feature.

Mr. Gage questioned Mr. Lee if he expected the project to look that way when the project was complete with all the details.

Mr. Lee stated that if the project is approved, he would have to comply with everything presented. He fully plans to have this project look like what is being presented to the Commission.

Ms. DeDiemar asked if Mr. Lee would be managing the project.

Mr. Lee said they would likely be hiring a professional management company, these are apartments for rent.

Mr. Downs asked if the property would be walled-off or gated.

Mr. Lee stated the courtyard will be secluded with a fence and gate, along with landscaping. He said on the east and south sides the Development Code requires a six-foot block wall. He stated on the west side, due to a utility easement, a six-foot vinyl fence will go up since it's easier to replace.

Mr. Downs asked if a gate will be installed to secure the parking area.

Mr. Lee stated he wished they could have done that, but the Development Code doesn't allow for that.

Mr. Murphy stated that in order to gate the project, there has to be a turn-around for cars to stack. He said with this site being as close as it is, it just doesn't allow for that, so the parking will be open.

Lynn McIlwain, a resident at East 206 Grevillea, came up to speak. Mr. McIlwain stated his concern was the bedroom size. He said there was a studio apartment at 700-square feet, a one-bedroom apartment at 700-square feet and a two-bedroom apartment at 800-square feet, which is only 100-square feet larger. He asked what the square footage on the bedrooms.

Mr. Lee stated it would be somewhere between 175 and 200-square feet.

Mr. Willoughby stated that typically apartment bedrooms are 10x10.

Mr. McIlwain asked if these were within the standards for apartments.

Mr. Willoughby asked Mr. Murphy for clarification.

Mr. Murphy stated bedroom sizes can depend on the on the floorplans and can vary from 10x10, 10x12, or 10x20. He said that what one sees in the studio, is a vast majority of living space with a combination of living space and kitchen area because there is no separate bedroom. He said then when you get to a two-bedroom, the living room and dining room areas are relatively small due to the bedrooms.

As there was no one else wishing to speak, Chairman Willoughby closed the public testimony

There was no Planning Commission deliberation.

PLANNING COMMISSION ACTION

It was moved by DeDiemar, seconded by Delman, to adopt a resolution to approve the Development Plan, File No. PDEV16-005, subject to conditions of approval. Roll call vote: AYES, DeDiemar, Delman, Downs, Gage, Gregorek, Ricci, and Willoughby; NOES, none; RECUSE, none; ABSENT, none. The motion was carried 7 to 0.

MATTERS FROM THE PLANNING COMMISSION

Old Business Reports From Subcommittees

Historic Preservation (Standing): This subcommittee did not meet.

Development Code Review (Ad-hoc): This subcommittee did not meet.

Zoning General Plan Consistency (Ad-hoc): This subcommittee did not meet.

New Business

NOMINATIONS FOR SPECIAL RECOGNITION

None at this time.

DIRECTOR'S REPORT

Mr. Murphy stated the monthly activity reports were in their packets. He stated that a letter had been received from Steve Lambert and *The 20/20 Network* and they are trying to pull together a Planning Commissioner network and training within the region. The first gathering is Thursday, March 9th. He said he would ask Planning Secretary Marci with all the specifics to send out and email asked the Commissioners to let him know if they are interested.

Ms. DeDiemar reminded everyone of the upcoming cultural art activity taking place from February 2 to March 26, 2017. She said it's the *Sheets, Sheets and Caughman* major exhibit taking place at the Chaffey Community Museum of Art and the Ontario Museum of History and Art. She urged everyone to attend the VIP Reception on Friday, February 10, 2017 from 6-8:30 PM. She said the event will include food, adult beverages and docent-led tours of both museums.

ADJOURNMENT

Gregorek motioned to adjourn, seconded by Downs. The meeting was adjourned at 9:24 PM.

Secretary Pro Tempore

Chairman, Planning Commission



**PLANNING COMMISSION
STAFF REPORT**
February 28, 2017

SUBJECT: A Development Plan (File No. PDEV16-052) to construct a 163-unit multi-family townhome and rowtown project consisting of 5 two-story, 14-unit townhome complexes and 16 two-story, rowtown complexes (fifteen 6-unit complexes and one 3-unit complex) on 14.62 acres of land located within the Medium Density Residential (MDR) and Low Density Residential (LDR) districts of Planning Area 11 of The Avenue Specific Plan, located at the southwest corner of Ontario Ranch Road and New Haven Drive (APN: 0218-412-04); **submitted by Brookfield Residential.**

PROPERTY OWNER: Brookcal Ontario, LLC

RECOMMENDED ACTION: That the Planning Commission approve File No. PDEV16-052, pursuant to the facts and reasons contained in the staff report and attached resolution, and subject to the conditions of approval contained in the attached departmental reports.

PROJECT SETTING: The project site is comprised of 14.62 acres of land located at the southwest corner of Ontario Ranch Road and New Haven Drive, within the Medium Density Residential (MDR) and Low Density Residential (LDR) districts of Planning Area 11 of The Avenue Specific Plan, and is depicted in Figure 1: Project Location, below. The project site gently slopes from north to south and is currently mass graded. The property to the north of the project site is within the Medium Density Residential district of Planning Area 10A of The Avenue Specific Plan and is developed with multi-family residential uses (Autocourt). The properties to the east are within the Medium Density Residential and Retail districts of Planning Areas 10B and 11 of The Avenue Specific Plan and are vacant. The properties to the south and west are within the Low Density Residential and Elementary School



Figure 1: Project Location

Case Planner:	Henry K. Noh	Hearing Body	Date	Decision	Action
Planning Director Approval:		DAB	2/22/17	Approve	Recommend
Submittal Date:	12/19/16	ZA			
Hearing Deadline:	N/A	PC	2/28/17		Final
		CC			

districts of Planning Area 4 and Planning Area 9 of the Grand Park Specific Plan and are mass graded.

PROJECT ANALYSIS:

[1] Background — The Avenue Specific Plan and Environmental Impact Report (EIR) were approved by the City Council on December 19, 2006. The Avenue Specific Plan establishes the land use designations, development standards, and design guidelines for 568 acres, which includes the potential development of 2,326 dwelling units and approximately 174,000 square feet of commercial.

On June 17, 2014, The City Council approved an Amendment (File No. PSPA13-003) to The Avenue Specific Plan to bring the land use designations of Planning Areas 4, 10A, 10B and 11 into compliance with the Policy Plan (General Plan) Land Use Map. In addition, the Amendment increased the number of residential units to 2,875 and decreased the commercial square footage to 130,000 square feet to be consistent with The Policy Plan.

On April 8, 2014, the Planning Commission approved Tentative Tract Map 18922 (referred to as an “A” Map) for Planning Areas 9A and 10A of The Avenue Specific Plan. The approved “A” Map facilitated the backbone infrastructure improvements (major streets, sewer, water and storm drain facilities) and the creation of park/recreational facilities and residential neighborhoods within the eastern portion of the Specific Plan (see **Figure 2: The Avenue Specific Plan Land Use Map**, below).

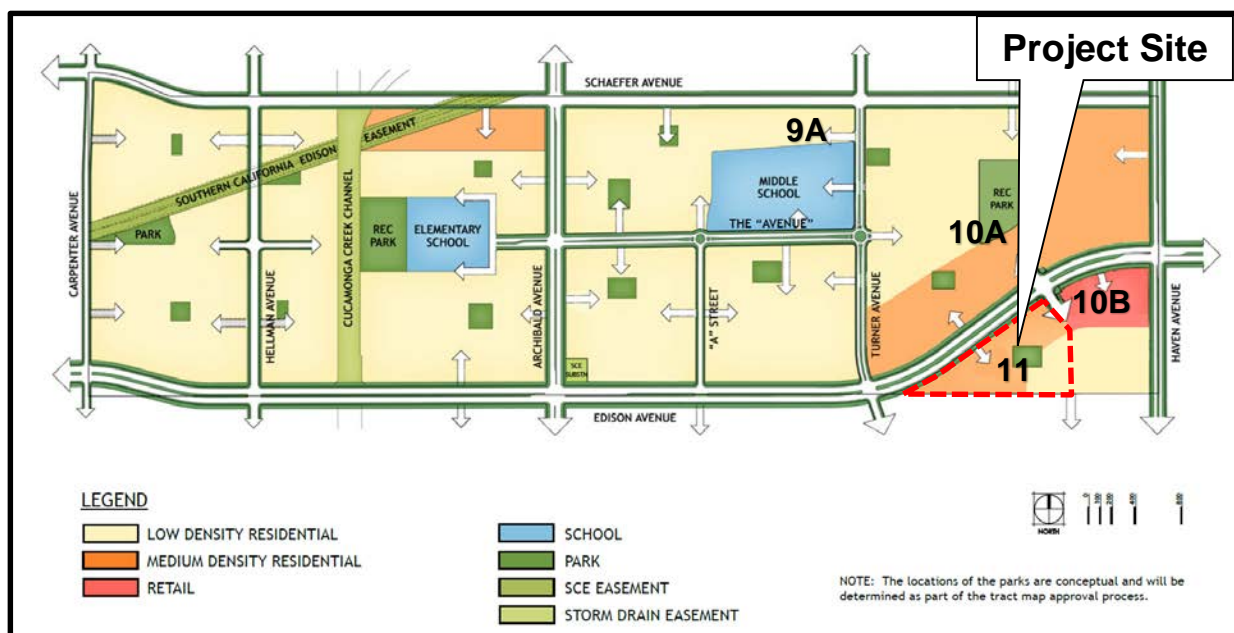


Figure 2: The Avenue Specific Plan Land Use Map

On January 24, 2017, the Planning Commission approved Tentative Tract Map 20061 for Condominium Purposes to subdivide the 14.62 acre project site into 4 numbered lots and 23 lettered lots to facilitate the construction of 163 multi-family townhome and rowtown units.

The Applicant, Brookfield Residential, has submitted a Development Plan (File No. PDEV16-052) to construct a 163-unit multi-family townhome and rowtown project consisting of 5 two-story, 14-unit townhome complexes and 16 two-story, rowtown complexes (fifteen 6-unit complexes and one 3-unit complex) on 14.62 acre parcel located within Planning Area 11 of The Avenue Specific Plan (see **Exhibit A: Site Plan**).

To date, there have been six development plans approved for the New Haven community that include:

- Holiday (Autocourt) – 189 autocourt units consisting of 14 two-story buildings;
- Summerset - 112 single-family conventional homes (55'x90' lots);
- Waverly – A 6-pack cluster product with 135 single-family homes;
- Marigold - 149 single-family conventional homes (45'x90' lots);
- Poppy – A 6-pack cluster product with 104 single-family homes; and
- Arborel – 91 single-family alley loaded homes.

Site Design/Building Layout — The proposed multi-family townhome product proposes five 14-unit complexes within the proposed project, that includes six (6) floor plans and two architectural styles. The six (6) floor plans include the following (see **Exhibit B – Townhome Floor Plans**):

- Plan 1: 974 square feet, 1 bedroom and 1 bath.
- Plan 2: 1,050 square feet, 2 bedrooms and 2.5 baths.
- Plan 3: 1,529 square feet, 2 bedrooms and 2 baths.
- Plan 4: 1,693 square feet, 3 bedrooms and 2.5 baths.
- Plan 5: 1,754 square feet, 3 bedrooms and 2.5 baths.
- Plan 6: 1,814 square feet, 3 bedrooms and 2.5 baths.

The proposed multi-family rowtown product proposes fifteen 6-unit complexes and one 3-unit complex within the proposed project that includes three (3) floor plans and two architectural styles. The three (3) floor plans include the following (see **Exhibit C – Rowtown Floor Plans**):

- Plan 1: 1,125 square feet, 2 bedroom and 2 baths.
- Plan 2: 1,306 square feet, 3 bedrooms and 2.5 baths.
- Plan 3: 1,552 square feet, 3 bedrooms and 2.5 baths.

The proposed multi-family townhome and rowtown products have garage access from a private lane with main entrances of the units fronting the street or garden court. The

primary access into each unit will be from a garden court area landscaped with accent trees and decorative lighted bollards to provide visual interest and promote pedestrian mobility (see **Figure 3: Conceptual Townhome Site Plan** and **Figure 4: Conceptual Rowtown Site Plan**).



Figure 3: Conceptual Townhome Site Plan

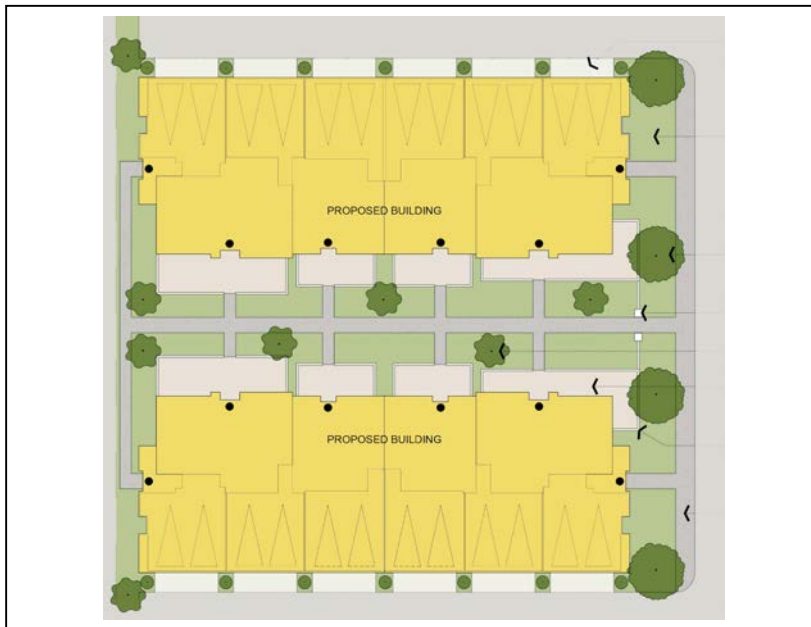


Figure 4: Conceptual Rowtown Site Plan

All plans incorporate various design features such as horizontal and vertical building articulation, varied entry designs, private patios, 1st or 2nd floor laundry facilities, and 2nd

floor decks/balconies. All homes will have a two-car garage with the exception of the townhome Plan 1, which will provide a one-car garage. To minimize the visual impact of garages, the applicant proposes access off a private lane/autocourt and includes varied massing, second story projections over garages, recessed garage doors, landscaped finger planters and varied roof lines.

[2] Site Access/Circulation — The previously approved related Tentative Tract Map 18922 (“A” Map), facilitated the construction of the backbone streets and primary access points into the existing New Haven Community (Planning Area 10A) of The Avenue Specific Plan from Ontario Ranch Road, Turner Avenue, Schaefer Avenue and Haven Avenue. The project site will have access from New Haven Drive, which runs north-south along the eastern frontage of the site and has direct access to Ontario Ranch Road. The related Tentative Tract Map (File No. PMTT16-020; TT20061) will construct the interior tract private drive (loop) that will provide access to the future multi-family developments.

[3] Parking — Parking requirements for the attached product are consistent with The Avenue Specific Plan, requiring 1.75 spaces (one within a garage) for one-bedroom units, 2 spaces (one within a garage) for two-bedroom units, and 2.5 spaces (one within a garage) for three-bedroom units. Visitor parking is required at 1 parking space for every five units following (see **Exhibit F – Parking Plan**).

With the proposed development, the one-bedroom units will have a one-car garage and the two and three-bedroom units have a two-car garage. With the 163 units proposed, a total of 440 parking spaces are being provided (407 required). Additional resident and visitor parking will be provided along the private drive into the community and along the north side of the park. Based on the parking requirements, the development will be over parked by thirty-three (33) spaces and provide 2.70 spaces per unit (see **Summary of Parking Table** below), providing more than adequate parking on site to accommodate visitors and residents of the proposed development.

Summary of Parking Analysis						
Number of Units	Req. Parking Per Unit	Req. Guest Parking	Total Req. Parking	Garage Space Provided	Open Parking Spaces	Total Provided
1 Bedroom – 10 units	1.75 – Including 1-car garage (17.5 spaces)	1 space per 5 units (2.0 spaces)	19.5	1-car garage (10 spaces)	10	20
2 Bedrooms – 51 units	2 – Including 1-car garage (102 spaces)	1 space per 5 units (10.2 spaces)	112.2	2-car garage (102 spaces)	39	62
3 Bedrooms – 102 units	2.5 – Including 1-car garage (255 spaces)	1 space per 5 units (20.4 spaces)	275.4	2-car garage (204 spaces)	77	151
163 units	374.5	32.6	407	316	124	440
					2.70 spaces per unit	

[4] Architecture — The proposed townhome architecture (Spanish and Monterey) is complimentary to the rowtown architectural styles (Spanish and Farmhouse) in both scale and massing. The two architectural styles proposed will include the following (see **Exhibit D – Townhome Elevations**):

Monterey: Varying gable, Dutch gable and hipped roofs with concrete roof tile; a moderate roof overhang; second story pop-out features; decorative wood out-lookers; stucco exterior; square entry openings with decorative brick and stucco surround; decorative clay barrel accents below gable ends; wood balconies; square window openings with stucco trim; corbels; decorative wood shutters; and first story pot shelves with a decorative brick cap.

Spanish: Varying gable and hipped roofs with concrete “S” tile roof; a moderate roof overhang; second story pop-out features; two-inch recessed arches; stucco exterior; square and arched entry openings with stucco trim; decorative wrought iron accents below gable ends; decorative wrought iron balcony railing; square window openings with stucco trim; decorative wrought iron pot shelves; corbels; decorative wood shutters; and first story pot shelves with a decorative cap.

The proposed rowtown architecture (Spanish and Farmhouse) is complimentary to the Holiday townhome architectural styles (Spanish and Monterey) in both scale and massing. The two architectural styles proposed will include the following (see **Exhibits E – Rowtown Elevations**):

Spanish: Varying gable and shed roofs with concrete “S” roof tiles; a moderate roof overhang; second story pop-out features; stucco exterior; square entry openings with stucco trim; decorative barrel clay barrel accents below gable ends; decorative wrought iron balcony railing; square window openings with stucco trim; decorative window sills; corbels; decorative wood trellises; and false chimneys.

Farmhouse: Varying gable roofs with concrete roof tile; a moderate roof overhang; second story pop-out features; decorative wood out-lookers; stucco exterior; square entry openings with stucco surrounds; decorative vent accents below gable ends; square window openings with stucco trim; corbels; decorative standing metal seam awnings; and vertical siding.

The proposed architectural designs of the buildings meet the design guidelines of The Avenue Specific Plan, which encourages high quality architecture and a level of authenticity of styles through the use of appropriate architectural elements. These styles complement one another through the overall scale, massing, proportions and details.

[5] Landscaping/Open Space — The Development Plan features landscaped parkways and interior landscaped green courts that include accent trees and decorative light bollards, which provides visual interest and promotes pedestrian mobility (**Exhibit G: Conceptual Landscape Plan**). In addition, 3’-6” high decorative patio walls with entry gates, that replicate the balcony railing, are provided for each architectural style. Finally, the autocourt/private lanes are designed with finger planters to soften the massing of the garages. The landscape installation will be the responsibility of the builder and maintenance will be the responsibility of the homeowners’ association.

The related Tentative Tract Map (File No. PMTT16-020; TT20061) will facilitate the construction of sidewalks, parkways, and open space areas within the project site. TOP Policy PR1-1 requires new developments to provide a minimum of 2 acres of private park per 1,000 residents. The proposed project is required to provide a 1.10 acre park to meet the minimum TOP private park requirement. To satisfy the park requirement, the applicant is proposing a 1.75 acre neighborhood park that is centrally located within the project. The applicant is also proposing a 0.80 pocket park located within the southwestern portion of the project site. In addition, a 6.8 acre park, as part of the related “A” Map (TT18922), was constructed at the center of Planning Area 10A, located north of the project site. The park features an 8,348 square foot club house, two pools and a spa, open lawn area and other recreational amenities. The residents of the townhomes and rowtowns will have access to the parks and all park amenities.

COMPLIANCE WITH THE ONTARIO PLAN: The proposed project is consistent with the principles, goals and policies contained within the Vision, Governance, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan (TOP). More specifically, the goals and policies of TOP that are furthered by the proposed project are as follows:

[1] City Council Goals.

- Invest in the Growth and Evolution of the City's Economy
- Operate in a Businesslike Manner
- Focus Resources in Ontario's Commercial and Residential Neighborhoods
- Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)
- Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in the New Model Colony

[2] Vision.

Distinctive Development:

- Commercial and Residential Development
 - Development quality that is broadly recognized as distinctive and not exclusively tied to the general suburban character typical of much of Southern California.

[3] Governance.

Decision Making:

- Goal G1: Sustained decision-making that consistently moves Ontario towards its Vision by using The Ontario Plan as a framework for assessing choices.
 - G1-2 Long-term Benefit. We require decisions to demonstrate and document how they add value to the community and support the Ontario Vision

[4] Policy Plan (General Plan)

Land Use Element:

- Goal LU1: A community that has a spectrum of housing types and price ranges that match the jobs in the City and that make it possible for people to live and work in Ontario and maintain a quality of life.

➤ LU1-1 Strategic Growth. We concentrate growth in strategic locations that help create place and identity, maximize available and planned infrastructure, and foster the development of transit.

➤ LU1-6 Complete Community: We incorporate a variety of land uses and building types in our land use planning efforts that result in a complete community where residents at all stages of life, employers, workers and visitors have a wide spectrum of choices of where they can live, work, shop and recreate within Ontario. (Refer to Complete Community Section of Community Economics Element).

- Goal LU2: Compatibility between a wide range of uses.

➤ LU2-6: Infrastructure Compatibility: We require infrastructure to be aesthetically pleasing and in context with the community character.

Housing Element:

- Goal H2: Diversity of types of quality housing that are affordable to a range of household income levels, accommodate changing demographics, and support and reinforce the economic sustainability of Ontario.

➤ H2-4 New Model Colony. We support a premier lifestyle community in the New Model Colony distinguished by diverse housing, highest design quality, and cohesive and highly amenitized neighborhoods.

➤ H2-5 Housing Design. We require architectural excellence through adherence to City design guidelines, thoughtful site planning, environmentally sustainable practices and other best practices.

Goal H5: A full range of housing types and community services that meet the special housing needs for all individuals and families in Ontario, regardless of income level, age or other status.

Community Economics Element:

- Goal CE1: A complete community that provides for all incomes and stages of life.

➤ CE1-6 Diversity of Housing. We collaborate with residents, housing providers and the development community to provide housing opportunities for every stage of life; we plan for a variety of housing types and price points to support our workforce, attract business and foster a balanced community.

- Goal CE2: A City of distinctive neighborhoods, districts, and corridors, where people choose to be.

➤ CE2-1 Development Projects. We require new development and redevelopment to create unique, high-quality places that add value to the community.

➤ CE2-2 Development Review. We require those proposing new development and redevelopment to demonstrate how their projects will create appropriately unique, functional and sustainable places that will compete well with their competition within the region.

➤ CE2-4 Protection of Investment. We require that new development and redevelopment protect existing investment by providing architecture and urban design of equal or greater quality.

➤ CE2-5 Private Maintenance. We require adequate maintenance, upkeep, and investment in private property because proper maintenance on private property protects property values.

Safety Element:

▪ Goal S1: Minimized risk of injury, loss of life, property damage and economic and social disruption caused by earthquake-induced and other geologic hazards.

➤ S1-1 Implementation of Regulations and Standards. We require that all new habitable structures be designed in accordance with the most recent California Building Code adopted by the City, including provisions regarding lateral forces and grading.

Community Design Element:

▪ Goal CD1: A dynamic, progressive city containing distinct neighborhoods and commercial districts that foster a positive sense of identity and belonging among residents, visitors, and businesses.

➤ CD1-1 City Identity. We take actions that are consistent with the City being a leading urban center in Southern California while recognizing the diverse character of our existing viable neighborhoods.

➤ CD1-2 Growth Areas. We require development in growth areas to be distinctive and unique places within which there are cohesive design themes.

➤ CD1-3 Neighborhood Improvement. We require viable existing residential and non-residential neighborhoods to be preserved, protected, and enhanced in accordance with our land use policies.

▪ Goal CD2: A high level of design quality resulting in public spaces, streetscapes, and developments that are attractive, safe, functional and distinct.

➤ CD2-1 Quality Architecture. We encourage all development projects to convey visual interest and character through:

- Building volume, massing, and height to provide appropriate scale and proportion;
- A true architectural style which is carried out in plan, section and elevation through all aspects of the building and site design and appropriate for its setting; and
- Exterior building materials that are visually interesting, high quality, durable, and appropriate for the architectural style.

➤ CD2-2 Neighborhood Design. We create distinct residential neighborhoods that are functional, have a sense of community, emphasize livability and social interaction, and are uniquely identifiable places through such elements as:

- A pattern of smaller, walkable blocks that promote access, activity and safety;
- Variable setbacks and parcel sizes to accommodate a diversity of housing types;
- Traffic calming measures to slow traffic and promote walkability while maintaining acceptable fire protection and traffic flows;
- Floor plans that encourage views onto the street and de-emphasize the visual and physical dominance of garages (introducing the front porch as the “outdoor living room”), as appropriate; and
- Landscaped parkways, with sidewalks separated from the curb.

➤ CD2-7 Sustainability. We collaborate with the development community to design and build neighborhoods, streetscapes, sites, outdoor spaces, landscaping and buildings to reduce energy demand through solar orientation, maximum use of natural daylight, passive solar and natural ventilation, building form, mechanical and structural systems, building materials and construction techniques.

➤ CD2-8 Safe Design. We incorporate defensible space design into new and existing developments to ensure the maximum safe travel and visibility on pathways, corridors, and open space and at building entrances and parking areas by avoiding physically and visually isolated spaces, maintenance of visibility and accessibility, and use of lighting.

➤ CD2-9 Landscape Design. We encourage durable landscaping materials and designs that enhance the aesthetics of structures, create and define public and private spaces, and provide shade and environmental benefits.

➤ CD2-10 Surface Parking Areas. We require parking areas visible to or used by the public to be landscaped in an aesthetically pleasing, safe and environmentally sensitive manner. Examples include shade trees, pervious surfaces, urban run-off capture and infiltration, and pedestrian paths to guide users through the parking field.

➤ CD2-11 Entry Statements. We encourage the inclusion of amenities, signage and landscaping at the entry to neighborhoods, commercial centers, mixed use areas, industrial developments, and public places that reinforce them as uniquely identifiable places.

➤ CD2-13 Entitlement Process. We work collaboratively with all stakeholders to ensure a high degree of certainty in the efficient review and timely processing of all development plans and permits.

▪ Goal CD3: Vibrant urban environments that are organized around intense buildings, pedestrian and transit areas, public plazas, and linkages between and within developments that are conveniently located, visually appealing and safe during all hours.

➤ CD3-6 Landscaping. We utilize landscaping to enhance the aesthetics, functionality and sustainability of streetscapes, outdoor spaces and buildings.

▪ Goal CD5: A sustained level of maintenance and improvement of properties, buildings and infrastructure that protects the property values and encourages additional public and private investments.

➤ CD5-1 Maintenance of Buildings and Property. We require all public and privately owned buildings and property (including trails and easements) to be properly and consistently maintained.

➤ CD5-2 Maintenance of Infrastructure. We require the continual maintenance of infrastructure.

HOUSING ELEMENT COMPLIANCE: The project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and the proposed project is consistent with the number of dwelling units (163) and density (11.15 DU/AC) specified in the Available Land Inventory.

AIRPORT LAND USE COMPATIBILITY PLAN (ALUCP) COMPLIANCE: The project site is located within the Airport Influence Area of the Ontario International Airport (ONT), and has been found to be consistent with the policies and criteria set forth within the ALUCP for ONT.

ENVIRONMENTAL REVIEW: The environmental impacts of this project were previously reviewed in conjunction with The Avenue Specific Plan Amendment (PSPA13-003), for which an addendum to The Avenue Specific Plan EIR (SCH# 2005071109) was adopted by the City Council on June 17, 2014. This Application introduces no new significant environmental impacts. All previously adopted mitigation measures are to be a condition of project approval and are incorporated herein by reference.

CONDITIONS OF APPROVAL: See attached department reports.

TECHNICAL APPENDIX:

Surrounding Zoning and Land Use:

	<i>Existing Land Use</i>	<i>General Plan Designation</i>	<i>Zoning Designation</i>	<i>Specific Plan Land Use</i>
<i>Site</i>	Vacant	Medium Density Residential	The Avenue Specific Plan	Planning Area 11 – (MDR)
<i>North</i>	Multi-Family Residential	Medium Density Residential	The Avenue Specific Plan	Planning Area 10A – (LDR/MDR)
<i>South</i>	Vacant – Mass Graded	Public School and Low Density Residential	Grand Park Specific Plan	Planning Area 4 – (LDR) and Planning Area 9 (Elementary School)
<i>East</i>	Vacant	Neighborhood Commercial and Low Density Residential	The Avenue Specific Plan	Planning Area 10B – (Retail)
<i>West</i>	Vacant – Mass Graded	Low Density Residential	Grand Park Specific Plan	Planning Area 4 – (LDR)

General Site & Building Statistics

<i>Item</i>	<i>Required Min./Max.</i>	<i>Provided (Ranges)</i>	<i>Meets Y/N</i>
<i>Project area (in acres):</i>	N/A	14.62	Y
<i>Maximum project density (dwelling units/ac):</i>	20	11.15	Y
<i>Maximum coverage (in %):</i>	60	49.5	Y
<i>Minimum lot size (in SF):</i>	14,000	67,239	Y
<i>Front yard setback (in FT):</i>	10	17.67 (Autocourt) 10 (Rowtown)	Y
<i>Side yard setback (in FT):</i>	10 (Autocourt) 5 (Rowtown)	13.85 (Autocourt) 7.67 (Rowtown)	Y
<i>Rear yard setback (in FT):</i>	10 (Autocourt) 5 (Rowtown)	22.6 (Autocourt) 7.67 (Rowtown)	Y
<i>Structure setbacks (in FT):</i>	20	30	Y
<i>Maximum height (in FT):</i>	35	31.2 (Autocourt) 30 (Rowtown)	Y
<i>Parking Required:</i>	407	440	Y

Exhibit A: Site Plan

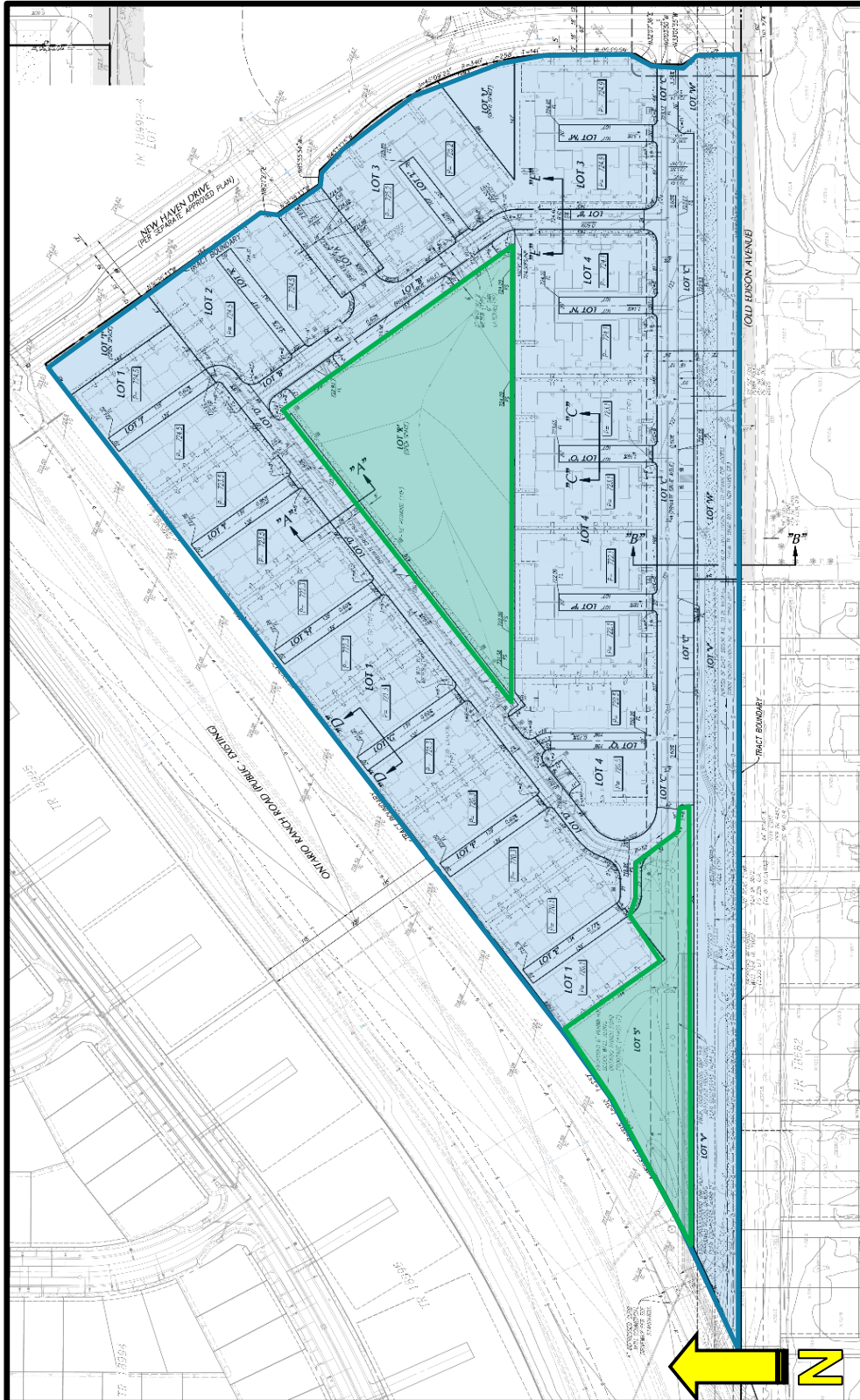


Exhibit B: Townhome Floor Plans (1st Floor)

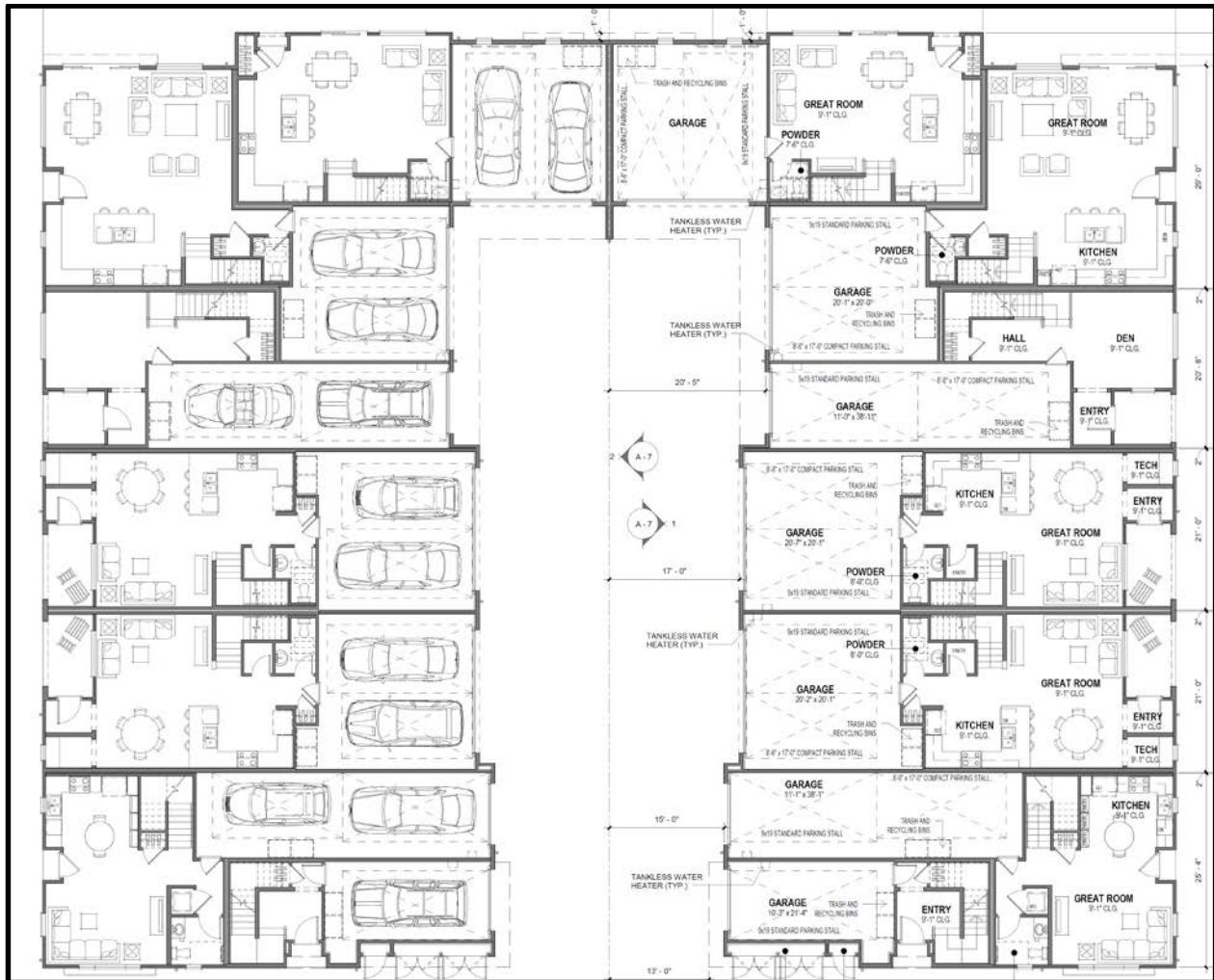


Exhibit B: Townhome Floor Plans (2nd Floor)

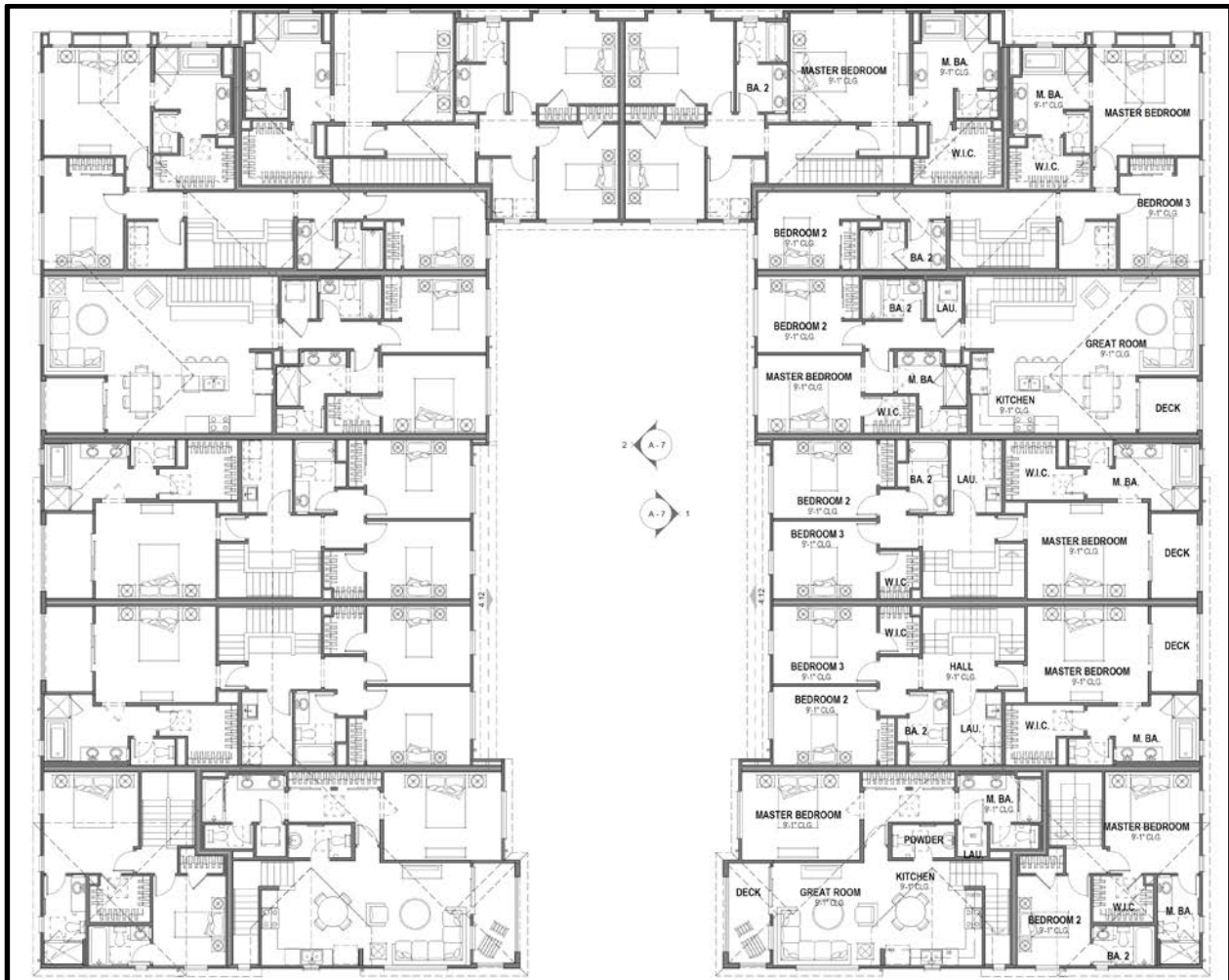


Exhibit C: Rowtown Overall Floor Plan

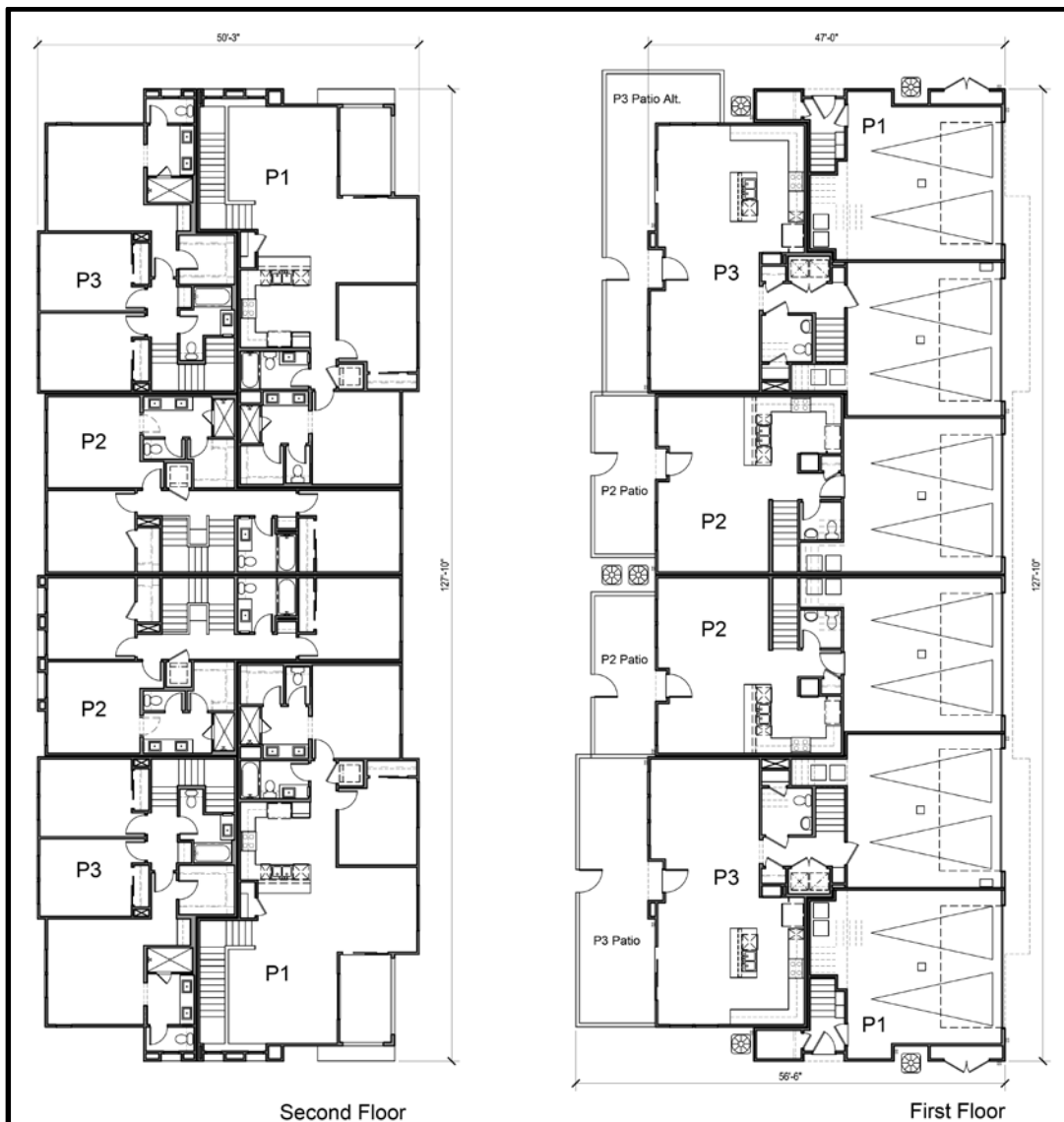


Exhibit C: Rowtown Plan 1 Floor Plans

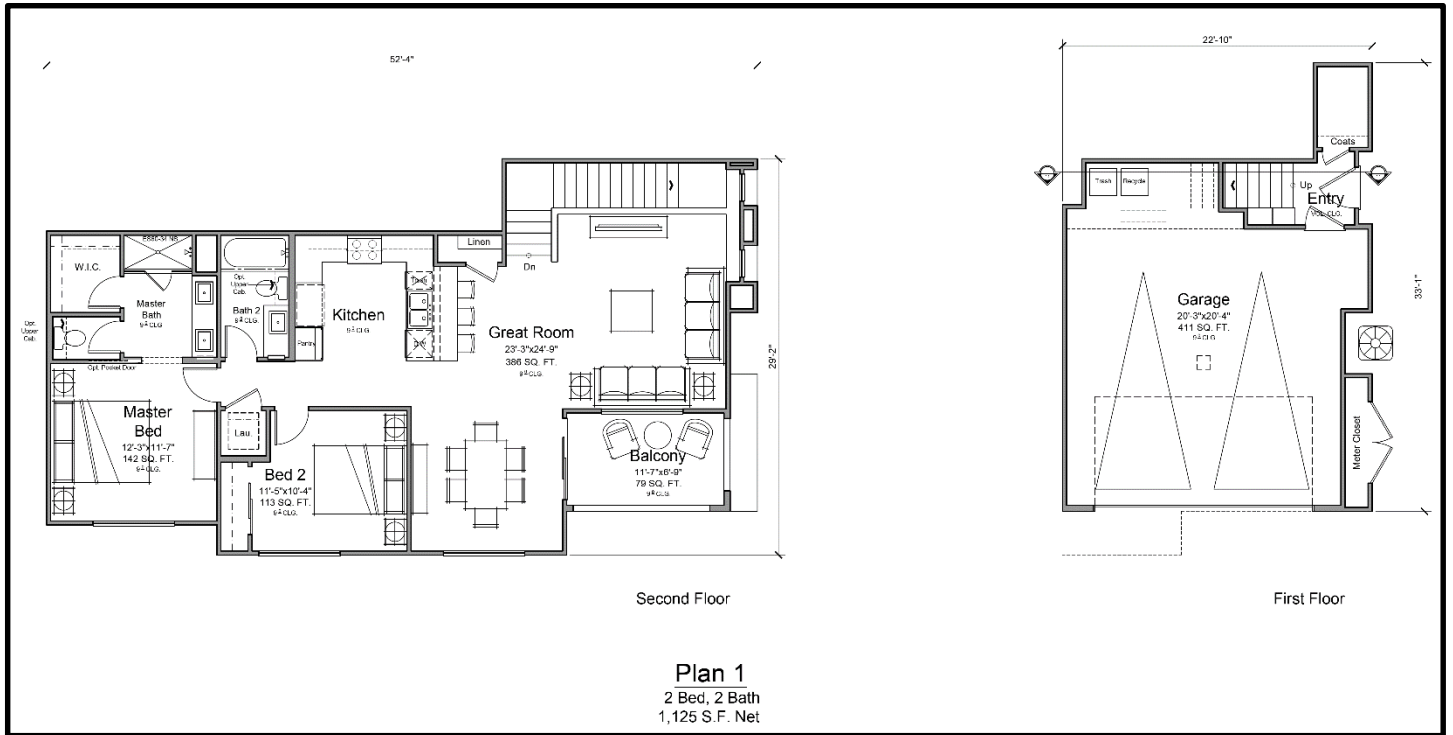


Exhibit C: Rowtown Plan 2 Floor Plans

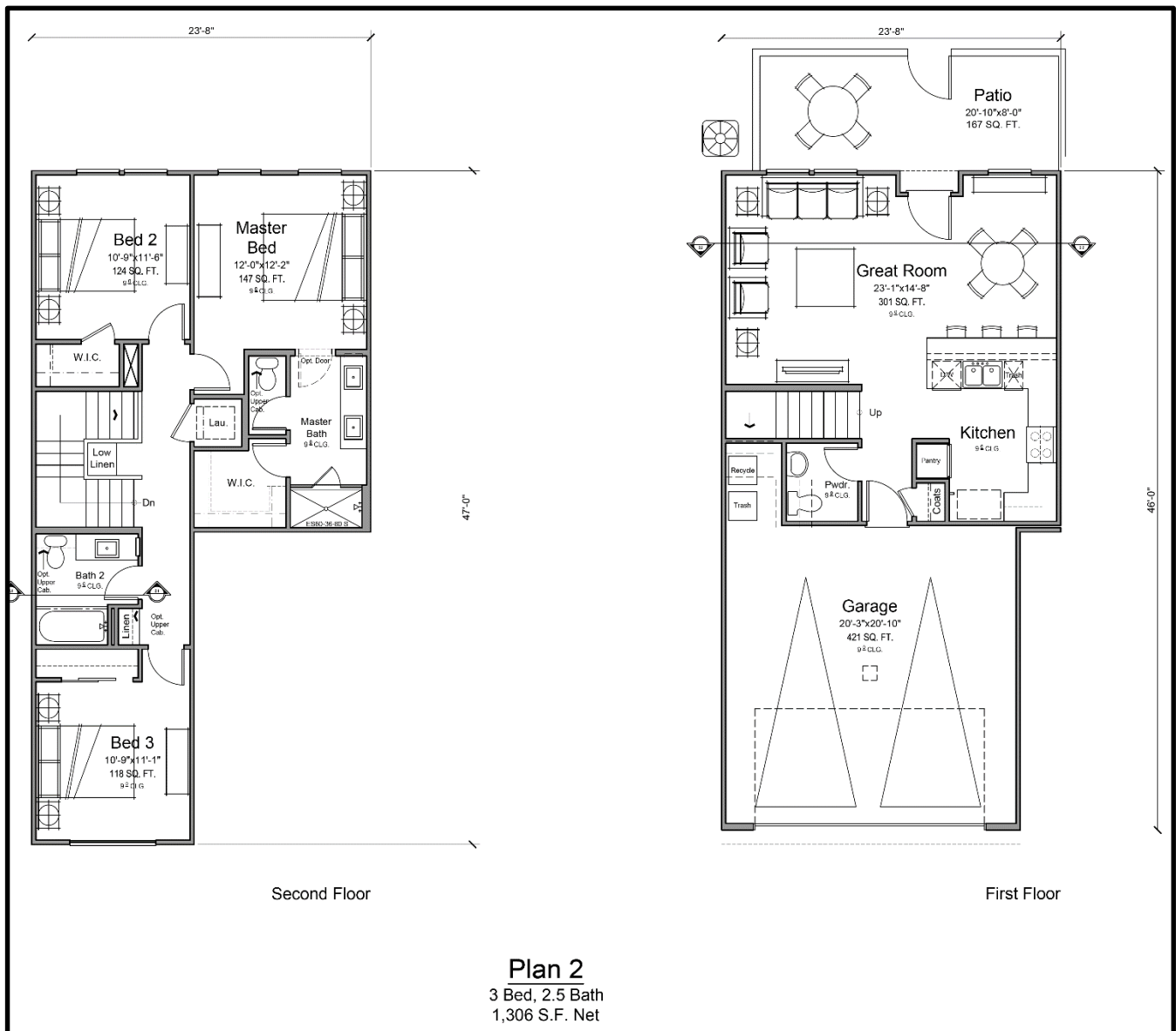


Exhibit C: Rowtown Plan 3 Floor Plans

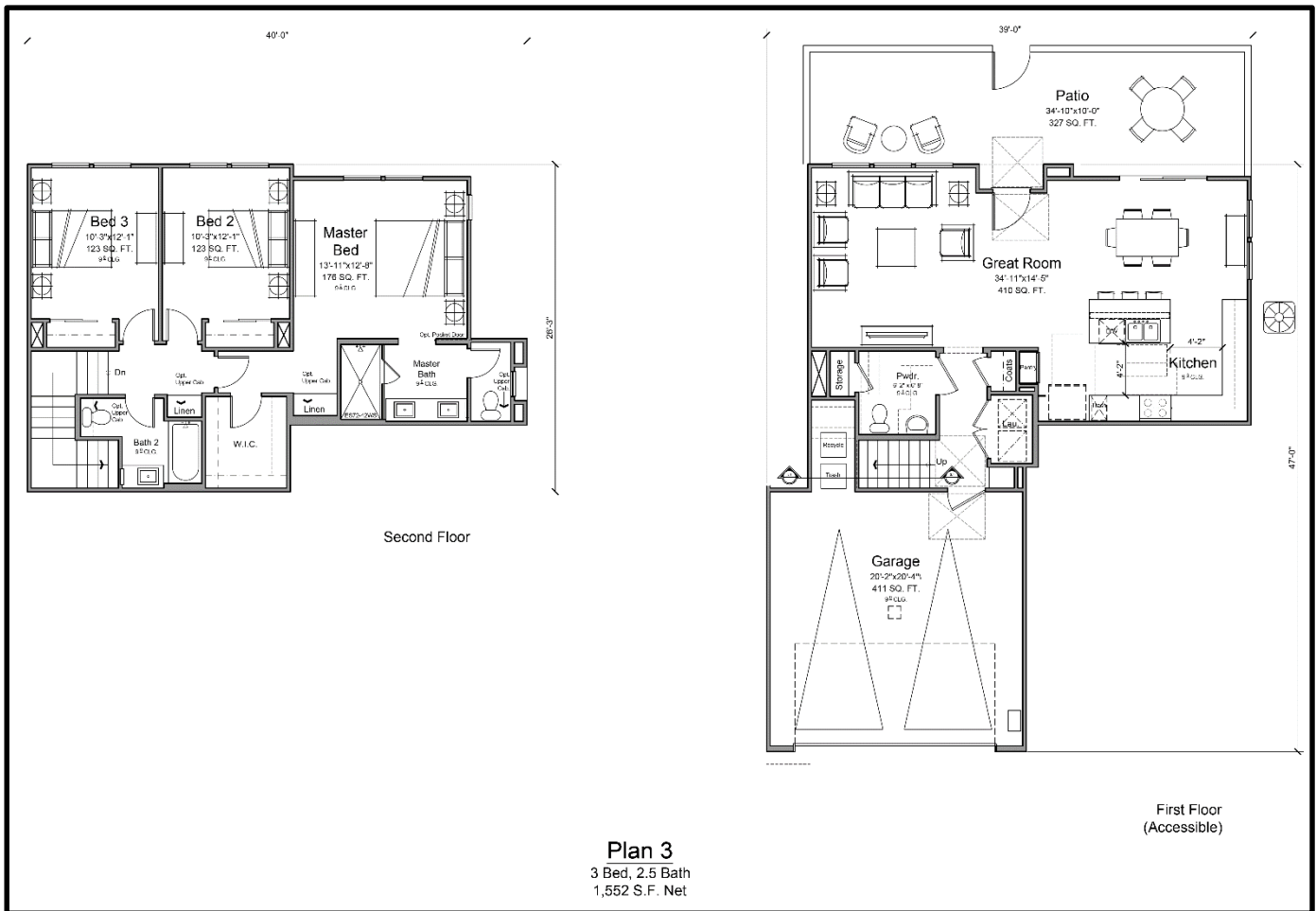


Exhibit D: Townhome Spanish Elevations



Rear Elevation



Front Elevation

Exhibit D: Townhome Monterey Elevations



Rear Elevation



Front Elevation

Exhibit E: Rowtown Spanish Elevations



Exhibit E: Rowtown Farmhouse Elevations



3. Front Elevation



4. Rear Elevation



1. Left Elevation



2. Right Elevation

Exhibit F: Parking Plan



Exhibit G: Rowtown Conceptual Landscape Plan



RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDEV16-052, A DEVELOPMENT PLAN TO CONSTRUCT A 163-UNIT MULTI-FAMILY, TOWNHOME AND ROWTOWN PROJECT CONSISTING OF 5 TWO-STORY, 14-UNIT TOWNHOME COMPLEXES AND 16 TWO-STORY ROWTOWN COMPLEXES (FIFTEEN 6-UNIT COMPLEXES AND ONE 3-UNIT COMPLEX) ON 14.62 ACRES OF LAND LOCATED WITHIN THE MEDIUM DENSITY RESIDENTIAL (MDR) AND LOW DENSITY RESIDENTIAL (LDR) DISTRICTS OF PLANNING AREA 11 OF THE AVENUE SPECIFIC PLAN, LOCATED AT THE SOUTHWEST CORNER OF ONTARIO RANCH ROAD AND NEW HAVEN DRIVE, AND MAKING FINDINGS IN SUPPORT THEREOF—APN: 0218-412-04.

WHEREAS, Brookfield Residential ("Applicant") has filed an Application for the approval of a Development Plan, File No. PDEV16-052, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to 14.62 acres of land located at the southwest corner of Ontario Ranch Road and New Haven Drive, located within the Medium Density Residential (MDR) and Low Density Residential (LDR) districts of Planning Area 11 of The Avenue Specific Plan, and is presently vacant; and

WHEREAS, the property to the north of the Project site is within the Medium Density Residential district of Planning Area 10A of The Avenue Specific Plan and is developed with multi-family residential uses (Autocourt). The properties to the east are within the Medium Density Residential and Retail districts of Planning Areas 10B and 11 of The Avenue Specific Plan and are vacant. The properties to the south and west are within the Low Density Residential and Elementary School districts of Planning Area 4 and Planning Area 9 of the Grand Park Specific Plan and are mass graded; and

WHEREAS, the Development Plan proposed is in compliance with the requirements of The Avenue Specific Plan and is sufficient in size to facilitate and implement the traditional planning concepts for the "Residential Neighborhood" within the Specific Plan; and

WHEREAS, the proposed Development Plan is located within Planning Area 11 (Medium Density Residential – Product Types 6 and 7) land use district of The Avenue Specific Plan, which establishes a minimum lot size of 14,000 square feet and a development capacity of 380 dwelling units; and

WHEREAS, the Project is located within the Airport Influence Area of Ontario International Airport (ONT), which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and is subject to, and must be consistent with, the

policies and criteria set forth in the ONT Airport Land Use Compatibility Plan (ALUCP), which applies only to jurisdictions within San Bernardino County, and addresses the noise, safety, airspace protection, and overflight impacts of current and future airport activity; and

WHEREAS, the Application is a project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA"); and

WHEREAS, the environmental impacts of this project were previously reviewed in conjunction with The Avenue Specific Plan Amendment (PSPA13-003), for which an addendum to The Avenue Specific Plan EIR (SCH# 2005071109) was adopted by the City Council on June 17, 2014, and this Application introduces no new significant environmental impacts; and

WHEREAS, on February 22, 2017, the Development Advisory Board of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date, voting to issue Decision No. DAB17-007 recommending the Planning Commission approve the Application; and

WHEREAS, on February 28, 2017, the Planning Commission of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED, AND RESOLVED by the Planning Commission of the City of Ontario, as follows:

SECTION 1. Environmental Determination and Findings. As the decision-making body for the Project, the Planning Commission has reviewed and considered the information contained in the administrative record for the Project. Based upon the facts and information contained in the administrative record, including all written and oral evidence presented to the Planning Commission, the Planning Commission finds as follows:

a. The environmental impacts of this project were previously reviewed in conjunction with The Avenue Specific Plan Amendment (PSPA13-003), for which a(n) addendum to The Avenue Specific Plan EIR (SCH# 2005071109) was adopted by the City Council on June 17, 2014; and

b. The previous addendum to The Avenue Specific Plan EIR (SCH# 2005071109) contains a complete and accurate reporting of the environmental impacts associated with the Project; and

c. The City's "Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed. This Application introduces no new significant environmental impacts; and

d. All previously adopted mitigation measures shall be a condition of project approval, as they are applicable to the Project, and are incorporated herein by this reference; and

e. The previous addendum to The Avenue Specific Plan EIR (SCH# 2005071109) contains a complete and accurate reporting of the environmental impacts associated with the Project, and reflects the independent judgment of the Planning Commission; and

f. There is no substantial evidence in the administrative record supporting a fair argument that the project may result in significant environmental impacts; and

SECTION 2. Housing Element Consistency. Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as the decision-making body for the Project, the Planning Commission finds that based upon the facts and information contained in the Application and supporting documentation, at the time of Project implementation, the project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and the proposed project is consistent with the number of dwelling units (163) and density (11.15 DU/AC) specified in the Available Land Inventory.

SECTION 3. Airport Land Use Compatibility Plan (ALUCP) Consistency. As the decision-making body for the Project, the Planning Commission has reviewed and considered the facts and information contained in the Application and supporting documentation, and finds that, at the time of Project implementation, the Project will be consistent with the policies and criteria set forth within the ONT ALUCP.

SECTION 4. Concluding Facts and Reasons. Based upon the substantial evidence presented to the Planning Commission during the above-referenced hearing, and upon the specific findings set forth in Section 1 through 3 above, the Planning Commission hereby concludes as follows:

a. The proposed development at the proposed location is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan. The proposed location of the Project, and the proposed conditions under which it will be constructed and maintained,

is consistent with the Policy Plan component of The Ontario Plan, The Avenue Specific Plan and the City's Development Plan. Therefore, the Project is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan. The Development Plan has been required to comply with all provisions of Product Types 6 and 7 Residential Development Standards of The Avenue Specific Plan. Future neighborhoods within the Avenue Specific Plan and surrounding area will provide for diverse housing and highly amenitized neighborhoods that will be compatible in design, scale and massing to the proposed development.

b. The proposed development is compatible with those on adjoining sites in relation to location of buildings, with particular attention to privacy, views, any physical constraint identified on the site and the characteristics of the area in which the site is located. The Project is compatible with adjoining sites in relation to location of buildings, with particular attention to privacy, views, any physical constraint identified on the site and the characteristics of the area in which the site is located. The Project has been designed consistent with the requirements of The Avenue Specific Plan (Medium Density Residential – Product Types 6 and 7) land use designations, including standards relative to the particular land use proposed (12-pack rowtown and 14-pack autocourt residential product), as well as building intensity, building and parking setbacks, building height, number of off-street parking spaces, on-site and off-site landscaping, and fences, walls and obstructions.

c. The proposed development will complement and/or improve upon the quality of existing development in the vicinity of the project and the minimum safeguards necessary to protect the public health, safety and general welfare have been required of the proposed project. The Project will not have a significant adverse impact on the environment. The environmental impacts of this project were previously reviewed in conjunction with The Avenue Specific Plan Environmental Impact Report (SCH#2005071109). This application is consistent with the previously adopted EIR and introduces no new significant environmental impacts.

d. The proposed development is consistent with the development standards and design guidelines set forth in the Development Code, or applicable specific plan or planned unit development. The proposed development is consistent with the development standards and design guidelines set forth in the Development Code and The Avenue Specific Plan. The Development Plan complies with all provisions of Product Types 6 and 7 Residential Design Guidelines and Development Standards of The Avenue Specific Plan.

SECTION 5. Planning Commission Action. Based upon the findings and conclusions set forth in Sections 1 and 4 above, the Planning Commission hereby APPROVES the herein described Application, subject to each and every condition set forth in the Department reports, attached hereto and incorporated herein by this reference.

SECTION 6. *Indemnification.* The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void, or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action, or proceeding, and the City of Ontario shall cooperate fully in the defense.

SECTION 7. *Custodian of Records.* The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 8. *Certification to Adoption.* The Secretary shall certify to the adoption of the Resolution.

The Secretary Pro Tempore for the Planning Commission of the City of Ontario shall certify as to the adoption of this Resolution.

I hereby certify that the foregoing Resolution was duly and regularly introduced, passed and adopted by the Planning Commission of the City of Ontario at a regular meeting thereof held on the 28th day of February 2017, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.

Jim Willoughby
Planning Commission Chairman

ATTEST:

Scott Murphy
Planning Director/Secretary of Planning
Commission

Planning Commission Resolution
File No. PDEV16-052
February 28, 2017
Page 6

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, Marci Callejo, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC17-[insert #] was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on February 28, 2017, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marci Callejo
Secretary Pro Tempore



City of Ontario
Planning Department
303 East B Street
Ontario, California 91764
Phone: 909.395.2036
Fax: 909.395.2420

Planning Department
Land Development Division
Conditions of Approval

Meeting Date: February 22, 2017
File No: PDEV16-052
Related Files: PMTT16-020

Project Description: A Development Plan (File No. PDEV16-052) to construct a 163-unit multi-family townhome and rowtown project consisting of 5 two-story 14-unit townhome complexes and 16 two-story rowtown complexes (fifteen 6-unit complexes and one 3-unit complex) on 14.62 acres of land located within the Medium Density Residential (MDR) and Low Density Residential (LDR) districts of Planning Area 11 of The Avenue Specific Plan, located at the southwest corner of Ontario Ranch Road and New Haven Drive. APN: 0218-412-04; **submitted by Brookfield Residential.**

Prepared By: Henry K. Noh, Senior Planner
Phone: 909.395.2429 (direct)
Email: hnoh@ontarioca.gov

The Planning Department, Land Development Section, conditions of approval applicable to the above-described Project, are listed below. The Project shall comply with each condition of approval listed below:

1.0 Standard Conditions of Approval. The project shall comply with the *Standard Conditions for New Development*, adopted by City Council Resolution No. 2010-021 on March 16, 2010. A copy of the *Standard Conditions for New Development* may be obtained from the Planning Department or City Clerk/Records Management Department.

2.0 Special Conditions of Approval. In addition to the *Standard Conditions for New Development* identified in condition no. 1.0, above, the project shall comply with the following special conditions of approval:

2.1 Time Limits.

(a) Development Plan approval shall become null and void 2 years following the effective date of application approval, unless a building permit is issued and construction is commenced, and diligently pursued toward completion, or a time extension has been approved by the Planning Director. This condition does not supersede any individual time limits specified herein, or any other departmental conditions of approval applicable to the Project, for the performance of specific conditions or improvements.

2.2 General Requirements. The Project shall comply with the following general requirements:

(a) All construction documentation shall be coordinated for consistency, including, but not limited to, architectural, structural, mechanical, electrical, plumbing, landscape and irrigation, grading, utility and street improvement plans. All such plans shall be consistent with the approved entitlement plans on file with the Planning Department.

(b) The project site shall be developed in conformance with the approved plans on file with the City. Any variation from the approved plans must be reviewed and approved by the Planning Department prior to building permit issuance.

(c) The herein-listed conditions of approval from all City departments shall be included in the construction plan set for project, which shall be maintained on site during project construction.

2.3 Landscaping.

(a) The Project shall provide and continuously maintain landscaping and irrigation systems in compliance with the provisions of Ontario Development Code Division 6.05 (Landscaping).

(b) Comply with the conditions of approval of the Planning Department; Landscape Planning Division.

(c) Landscaping shall not be installed until the Landscape and Irrigation Construction Documentation Plans required by Ontario Development Code Division 6.05 (Landscaping) have been approved by the Landscape Planning Division.

(d) Changes to approved Landscape and Irrigation Construction Documentation Plans, which affect the character or quantity of the plant material or irrigation system design, shall be resubmitted for approval of the revision by the Landscape Planning Division, prior to the commencement of the changes.

2.4 Walls and Fences. All Project walls and fences shall comply with the requirements of Ontario Development Code Division 6.02 (Walls, Fences and Obstructions) and The Avenue Specific Plan.

2.5 Parking, Circulation and Access.

(a) The Project shall comply with the applicable off-street parking, loading and lighting requirements of City of Ontario Development Code Division 6.03 (Off-Street Parking and Loading) and The Avenue Specific Plan.

(b) Areas provided to meet the City's parking requirements, including off-street parking and loading spaces, access drives, and maneuvering areas, shall not be used for the outdoor storage of materials and equipment, nor shall it be used for any other purpose than parking.

(c) The required number of off-street parking spaces and/or loading spaces shall be provided at the time of site and/or building occupancy. All parking and loading spaces shall be maintained in good condition for the duration of the building or use.

(d) Parking spaces specifically designated and conveniently located for use by the physically disabled shall be provided pursuant to current accessibility regulations contained in State law (CCR Title 24, Part 2, Chapters 2B71, and CVC Section 22507.8).

2.6 Site Lighting.

(a) All off-street parking facilities shall be provided with nighttime security lighting pursuant to Ontario Municipal Code Section 4-11.08 (Special Residential Building Provisions) and Section 4-11.09 (Special Commercial/Industrial Building Provisions), designed to confine emitted light to the parking areas. Parking facilities shall be lighted from sunset until sunrise, daily, and shall be operated by a photocell switch.

(b) Unless intended as part of a master lighting program, no operation, activity, or lighting fixture shall create illumination on any adjacent property.

2.7 Mechanical and Rooftop Equipment.

(a) All exterior roof-mounted mechanical, heating and air conditioning equipment, and all appurtenances thereto, shall be completely screened from public view by parapet walls or roof screens that are architecturally treated so as to be consistent with the building architecture.

(b) All ground-mounted utility equipment and structures, such as tanks, transformers, HVAC equipment, and backflow prevention devices, shall be located out of view from a public street, or adequately screened through the use of landscaping and/or decorative low garden walls.

2.8 Sound Attenuation. The Project shall be constructed and operated in a manner so as not to exceed the maximum interior and exterior noised levels set forth in Ontario Municipal Code Title 5 (Public Welfare, Morals, and Conduct), Chapter 29 (Noise).

2.9 Disclosure Statements.

(a) A copy of the Public Report from the Department of Real Estate, prepared for the subdivision pursuant to Business and Professions Code Section 11000 et seq., shall be provided to each prospective buyer of the residential units and shall include a statement to the effect that:

(i) This tract is subject to noise from the Ontario International Airport and may be more severely impacted in the future.

(ii) Some of the property adjacent to this tract is zoned for agricultural uses and there could be fly, odor, or related problems due to the proximity of animals.

(iii) The area south of Riverside Drive lies within the San Bernardino County Agricultural Preserve. Dairies currently existing in that area are likely to remain for the foreseeable future.

(iv) This tract is part of a Landscape Maintenance District. The homeowner(s) will be assessed through their property taxes for the continuing maintenance of the district.

2.10 Environmental Review.

(a) The environmental impacts of this project were previously analyzed in an addendum to The Avenue Specific Plan EIR (SCH# 2005071109) that was adopted by the City Council on June 17, 2014. This application is consistent with the previously adopted EIR and introduces no new significant environmental impacts. The City's "Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed. All previously adopted mitigation measures shall be a condition of project approval and are incorporated herein by reference.

(b) If human remains are found during project grading/excavation/construction activities, the area shall not be disturbed until any required investigation is completed by the County Coroner and Native American consultation has been completed (if deemed applicable).

(c) If any archeological or paleontological resources are found during project grading/excavation/construction, the area shall not be disturbed until the significance of the resource is determined. If determined to be significant, the resource shall be recovered by a qualified archeologist or paleontologist consistent with current standards and guidelines, or other appropriate measures implemented.

2.11 Indemnification. The applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of

Ontario or its agents, officers or employees to attack, set aside, void or annul any approval of the City of Ontario, whether by its City Council, Planning Commission or other authorized board or officer. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

2.12 Additional Fees.

(a) Within 5 days following final application approval, the Notice of Determination (NOD) filing fee shall be provided to the Planning Department. The fee shall be paid by check, made payable to the "Clerk of the Board of Supervisors", which shall be forwarded to the San Bernardino County Clerk of the Board of Supervisors, along with all applicable environmental forms/notices, pursuant to the requirements of the California Environmental Quality Act (CEQA). Failure to provide said fee within the time specified may result in a 180-day extension to the statute of limitations for the filing of a CEQA lawsuit.

(b) After the Project's entitlement approval, and prior to issuance of final building permits, the Planning Department's Plan Check and Inspection fees shall be paid at the rate established by resolution of the City Council.

2.13 Additional Requirements.

(a) Off-Site Subdivision Signs.

The City Council has authorized the Baldy View Chapter of the Building Industry Association to manage a standardized off-site directional sign program on a non-profit basis. The program uses uniform sign structures and individual identification and directional signs for residential development. **No other off-site signing is authorized.** (For additional information, contact the Baldy View Chapter BIA at (909) 945-1884.

(b) The applicant shall contact the Ontario Post Office to determine the size and location of mailboxes for this project. The location of the mailboxes shall be submitted to the Planning Department for review and approval prior to the issuance of building permits.

(c) The applicant (Developer) shall be responsible for providing fiber to each home per City requirements and standards.

(d) Dairy Separation Requirement for Residential Development.

The following separation requirements from existing dairies/feed lots shall apply to new residential development or structures used for public assembly purposes from existing dairies/feed lots.

A minimum 100' separation shall be required between a new residential, commercial or industrial development or structure used for public assembly and an existing animal feed trough, corral/pen or an existing dairy/feed lot including manure stockpiles and related wastewater detention basins. The 100-foot separation requirement may be satisfied by an off-site easement acceptable to the Planning Director with adjacent properties, submitted with the initial final map and recorded prior to or concurrent with the final map.

(e) Prior to the issuance of the 40th home certificate of occupancy within TT 20061, the Open Space Lot R shall be fully constructed.

(f) Prior to the issuance of Certificate of Occupancy for the first building within Lot 3, the Open Space Lot U shall be fully constructed.

(g) Prior to the issuance of the 81st home certificate of occupancy within TT 20061, the Open Space Lot S shall be fully constructed.

(h) Prior to the issuance of the 122nd home certificate of occupancy within TT 20061, the Open Space Lot V shall be fully constructed.

(i) The applicant/developer shall coordinate with the Engineering Department to pay in-lieu fees for the ultimate frontage improvements for that portion of existing Edison Avenue between the easterly limit of Tract Map 18662 and New Haven Avenue since this segment of Edison Avenue is not being vacated at the present time. The ultimate improvements shall match proposed improvements between TM18662 and Ontario Ranch Road. Also, a paved roadway shall be maintained between Haven Avenue and the easterly limit of Tract Map 18662 to provide access for the existing farms and houses located along the south side of Edison Avenue.

(j) The entryways into the rowtown and townhome paseos shall be constructed with an enhanced trellis/arbor.

(k) All applicable conditions of approval of Development Agreement (File No. PDA10-002) shall apply to this tract.

(l) All applicable conditions of approval of The Avenue Specific Plan shall apply to this tract.

(m) All applicable conditions of approval of the "A" Map TT 18922 (File No. PMTT13-010) and "B" Maps TT 18992 (File No. PMTT14-014) and TT 18996 (File No. PMTT16-008) shall apply to this development plan.

CITY OF ONTARIO

MEMORANDUM

TO: PLANNING DEPARTMENT, Henry Noh
FROM: BUILDING DEPARTMENT, Kevin Shear
DATE: January 3, 2017
SUBJECT: PDEV16-0152

-
- The plan **does** adequately address the departmental concerns at this time.
 No comments
 Report below.

Conditions of Approval

1. Standard Conditions of Approval apply.

KS:lm



CITY OF ONTARIO

MEMORANDUM

TO: "Vacant", Development Director
Scott Murphy, Planning Director (Copy of memo only)
Cathy Wahlstrom, Principal Planner (Copy of memo only)
Charity Hernandez, Economic Development
Kevin Shear, Building Official
Khoi Do, Assistant City Engineer
Carolyn Bell, Landscape Planning Division
Sheldon Yu, Municipal Utility Company
Doug Sorel, Police Department
Art Andres, Deputy Fire Chief/Fire Marshal
Tom Danna, T. E., Traffic/Transportation Manager
Lorena Mejia, Associate Planner, Airport Planning
Steve Wilson, Engineering/NPDES
Bob Gluck, Code Enforcement Director
Jimmy Chang, IT Department
David Simpson, Development/IT (Copy of memo only)

FROM: Henry Noh, Senior Planner

DATE: December 20, 2016

SUBJECT: FILE #: PDEV16-052 Finance Acct#:

The following project has been submitted for review. Please send one (1) copy and email one (1) copy of your DAB report to the Planning Department by **Tuesday, January 3, 2017**.

- Note:
- Only DAB action is required
 - Both DAB and Planning Commission actions are required
 - Only Planning Commission action is required
 - DAB, Planning Commission and City Council actions are required
 - Only Zoning Administrator action is required

32ft

PROJECT DESCRIPTION: A Development Plan to construct 163 multiple-family dwellings on approximately 14.64 acres of land located at the southwest corner of Ontario Ranch Road and New Haven Drive, within Planning Area 11 (Medium Density Residential) land use district of the Avenue Specific Plan (APN: 0218-412-04). Related File: PMTT16-020.

- The plan does adequately address the departmental concerns at this time.
 - No comments
 - Report attached (1 copy and email 1 copy)
 - Standard Conditions of Approval apply
- The plan does not adequately address the departmental concerns.
 - The conditions contained in the attached report must be met prior to scheduling for Development Advisory Board.

Department: Airport Planning Signature: Lorena Mejia Title: Senior Planner Date: 1/23/17

AIRPORT LAND USE COMPATIBILITY PLANNING

CONSISTENCY DETERMINATION REPORT



Project File No.: PDEV16-052

Address: SWC Ontario Ranch Road & New Haven Drive

APN: 0218-412-04

Existing Land Use: Vacant

Proposed Land Use: 163 residential Multi-family units

Site Acreage: 14.64 Proposed Structure Height: 32 ft

ONT-IAC Project Review: N/A

Airport Influence Area: ONT

Reviewed By: Lorena Mejia

Contact Info: 909-395-2276

Project Planner: Henry Noh

Date: 1/23/17

CD No.: 2016-078

PALU No.: n/a

The project is impacted by the following ONT ALUCP Compatibility Zones:

Safety	Noise Impact	Airspace Protection	Overflight Notification
<input type="radio"/> Zone 1	<input type="radio"/> 75+ dB CNEL	<input type="radio"/> High Terrain Zone	<input type="radio"/> Avigation Easement Dedication
<input type="radio"/> Zone 1A	<input type="radio"/> 70 - 75 dB CNEL	<input checked="" type="checkbox"/> FAA Notification Surfaces	<input type="radio"/> Recorded Overflight Notification
<input type="radio"/> Zone 2	<input type="radio"/> 65 - 70 dB CNEL	<input type="radio"/> Airspace Obstruction Surfaces	<input checked="" type="checkbox"/> Real Estate Transaction Disclosure
<input type="radio"/> Zone 3	<input type="radio"/> 60 - 65 dB CNEL	<input type="radio"/> Airspace Avigation Easement Area	
<input type="radio"/> Zone 4		Allowable Height: 200 ft +	
<input type="radio"/> Zone 5			

The project is impacted by the following Chino ALUCP Safety Zones:

Zone 1
 Zone 2
 Zone 3
 Zone 4
 Zone 5
 Zone 6

Allowable Height: _____

CONSISTENCY DETERMINATION

This proposed Project is: Exempt from the ALUCP Consistent Consistent with Conditions Inconsistent

The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plan (ALUCP) for ONT.

See Attached Conditions

Airport Planner Signature: _____

AIRPORT LAND USE COMPATIBILITY PLANNING

CONSISTENCY DETERMINATION REPORT

CD No.: 2016-078

PALU No.: _____

PROJECT CONDITIONS

The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and was evaluated and found to be consistent with the Airport Land Use Compatibility Plan (ALUCP) for ONT. The applicant is required to meet the Real Estate Transaction Disclosure in accordance with California Codes (Business and Professions Code Section 11010-11024). New residential subdivisions within an Airport Influence Area are required to file an application for a Public Report consisting of a Notice of Intention (NOI) and a completed questionnaire with the Department of Real Estate and include the following language within the NOI:

NOTICE OF AIRPORT IN VICINITY

This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.



CITY OF ONTARIO

MEMORANDUM

TO: Henry Noh, Planning Department

FROM: Douglas Sorel, Police Department

DATE: January 23, 2017

SUBJECT: PDEV16-052– A DEVELOPMENT PLAN TO CONSTRUCT 163
MULTIPLE-FAMILY DWELLINGS AT ONTARIO RANCH ROAD AND
NEW HAVEN DRIVE

The “Standard Conditions of Approval” contained in Resolution No. 2010-021 apply. The applicant shall read and be thoroughly familiar with these conditions, including, but not limited to, the requirements below.

- Required lighting for all walkways, driveways, doorways, parking areas, and other areas used by the public shall be provided operate on photosensor. Photometrics shall be provided to the Police Department. Photometrics shall include the types of fixtures proposed and demonstrate that such fixtures meet the vandal-resistant requirement. Planned landscaping shall not obstruct lighting.
- The Applicant shall comply with construction site security requirements as stated in the Standard Conditions.

The Applicant is invited to call Douglas Sorel at (909) 395-2873 regarding any questions or concerns.

**CITY OF ONTARIO
LANDSCAPE PLANNING DIVISION
303 East "B" Street, Ontario, CA 91764**

CONDITIONS OF APPROVAL

Sign Off

<i>Carolyn Bell</i> Carolyn Bell, Sr. Landscape Planner	1/23/17 Date
--	-----------------

viewer's Name: Carolyn Bell, Sr. Landscape Planner	Phone: (909) 395-2237
--	---------------------------------

D.A.B. File No.: PDEV16-052 Rev 1	Case Planner: Henry Noh
--------------------------------------	----------------------------

Project Name and Location:
New Haven Planning Area 11/ P13 Rowrowns
SWC Ontario Ranch Road and New Haven Ave

Applicant/Representative:
Brookfield Residential
3200 Park Center Dr. ste 1000
Costa Mesa, CA 92626

- | | |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | A Preliminary Landscape Plan (dated 12/19/16) meets the Standard Conditions for New Development and has been approved with the consideration that the following conditions below be met upon submittal of the landscape construction documents. |
| <input type="checkbox"/> | A Preliminary Landscape Plan (dated) has not been approved. Corrections noted below are required prior to Preliminary Landscape Plan approval. |

CORRECTIONS REQUIRED

Civil Plans

- Show backflows and transformers on plan, and dimension a 4' set back from paving.
- Locate lights, fire hydrants, water and sewer lines to not conflict with required tree locations.
- Note for compaction to be no greater than 85% at landscape areas. All finished grades at 1 1/2" below finished surfaces. Slopes to be maximum 3:1.
- Dimension all parking lot planters to have a minimum 5' wide inside dimension with 6" curbs and 12" wide curbs, or 12" wide pavers or DG paving with aluminum edging where parking spaces are adjacent to planters.

Landscape Plans

- Correct landscape, grading and site plans to match patio wall layout on all plans. Provide dimensions for patios, walkways and landscape area.
- Add windows to typical landscape enlargement plan to assist in tree placement
- Show min 3' planter area between north property line wall or fence and walkway to end units.
- Provide a concept landscape plan for the 14-plex Townhomes.
- Provide a concept plan for the park and open space areas.
- Add to legend trees proposed for street trees, patio trees, screening trees, etc.
- Add to plan call outs for groundcover, shrubs, turf, screening shrubs.
- Show all utilities on the landscape plans. Coordinate so utilities clear of required tree locations.
- Add symbol or call out existing trees and callout genus and species.
- Show parkway landscape and street trees spaced 30' apart.
- Show appropriate parking lot shade trees with min 30' canopy at maturity.
- Call out type of proposed irrigation system and include preliminary MAWA calculation.
- Show landscape hydrozones to separate low water from moderate water landscape.
- Note that irrigation plans shall provide separate systems for tree stream bubblers with pc screens.
- Replace invasive, frost damaged, high water using, short lived, high maintenance or poor performing plants: Schinus molle, Papyrus, Juncus, Lavender. Change plants that cannot tolerate clay or compacted soil.
- All text shall be min 1/8" and be legible
- Note for agronomical soil testing and include report on landscape plans. For phased projects, a

new report is required for each phase or a minimum of every 6 homes in residential developments.

22. Call out all fences and walls, materials proposed and heights.
23. Show concrete mowstrips to identify property lines along open areas or to separate ownership or between maintenance areas.
24. Residential projects shall include a stub-out for private patio irrigation systems with anti-siphon valves. All single family and multi-family residential front yards shall have landscape and irrigation.
25. Show 25% of trees as California native (Platanus racemosa, Quercus agrifolia, Quercus wislizenii, Quercus douglasii, Cercis occidentalis, Sambucus Mexicana, etc.) in appropriate locations.
26. Show all proposed sign locations to avoid conflicts with tree locations.
27. Construction plans shall be designed and signed by a licensed landscape architect.
28. Landscape construction plans shall meet the requirements of the Landscape Development Guidelines. See <http://www.ontarioca.gov/landscape-planning/standards>
29. After a project's entitlement approval, the applicant shall pay all applicable fees for landscape plan check and inspections at a rate established by resolution of the City Council. Typical fees are:

Plan Check—5 or more acres	\$2,326.00
Plan Check—less than 5 acres	\$1,301.00
Inspection—Construction (up to 3 inspections)	\$278.00
Inspection—Field - additional.....	\$83.00

Electronic plan check sets may be sent to: landscapeplancheck@ontarioca.gov



CITY OF ONTARIO

MEMORANDUM

TO: Henry Noh, Senior Planner
Planning Department

FROM: Lora L. Gearhart, Fire Protection Analyst
Fire Department

DATE: February 13, 2017

SUBJECT: PDEV16-052 - A Development Plan to construct 91 multiple-family dwellings on approximately 4.29 acres of land generally located at the northeast corner of Turner Avenue and Ontario Ranch Road, within Planning Area 10A of The Avenue Specific Plan

-
- The plan **does** adequately address Fire Department requirements at this time.
- No comments.
- Standard Conditions of Approval apply, as stated below.
-

SITE AND BUILDING FEATURES:

- A. 2013 CBC Type of Construction: V B
- B. Type of Roof Materials: UNK
- C. Ground Floor Area(s): UNK
- D. Number of Stories: 2 stories
- E. Total Square Footage: UNK
- F. 2013 CBC Occupancy Classification(s): R-2

CONDITIONS OF APPROVAL:

1.0 GENERAL

- 1.1 The following are the Ontario Fire Department ("Fire Department") requirements for this development project, based on the current edition of the California Fire Code (CFC), and the

current versions of the Fire Prevention Standards (“Standards.”) It is recommended that the applicant or developer transmit a copy of these requirements to the on-site contractor(s) and that all questions or concerns be directed to the Bureau of Fire Prevention, at (909) 395-2029. For copies of Ontario Fire Department Standards please access the City of Ontario web site at www.ci.ontario.ca.us, click on “Fire Department” and then on “Standards and Forms.”

- 1.2 These Fire Department conditions of approval are to be included on any and all construction drawings.

2.0 FIRE DEPARTMENT ACCESS

- 2.1 Fire Department vehicle access roadways shall be provided to within 150 ft. of all portions of the exterior walls of the first story of any building, unless specifically approved. Roadways shall be paved with an all-weather surface and shall be a minimum of twenty (20) ft. wide. See Standard #B-004.
- 2.2 In order to allow for adequate turning radius for emergency fire apparatus, all turns shall be designed to meet the minimum twenty five feet (25’) inside and forty-five feet (45’) outside turning radius per Standard #B-005.
- 2.3 Fire Department access roadways that exceed one hundred and fifty feet (150’) in length shall have an approved turn-around per Standard #B-002.
- 2.5 "No Parking-Fire Lane" signs and /or red painted curbs with lettering are required to be installed in interior access roadways, in locations where vehicle parking would obstruct the minimum clear width requirement. Installation shall be per Standard #B-001.
- 2.6 Security gates or other barriers on fire access roadways shall be provided with a Knox brand key switch or padlock to allow Fire Department access. See Standards #B-003, B-004 and H-001.

3.0 WATER SUPPLY

- 3.1 The required fire flow per Fire Department standards, based on the 2016 California Fire Code, Appendix B, is 1500 gallons per minute (g.p.m.) for 2 hours at a minimum of 20 pounds per square inch (p.s.i.) residual operating pressure.
- 3.2 Off-site (public) fire hydrants are required to be installed on all frontage streets, at a minimum spacing of three hundred foot (300’) apart, per Engineering Department specifications.
- 3.4 The public water supply, including water mains and fire hydrants, shall be tested and approved by the Engineering Department and Fire Department prior to combustible construction to assure availability and reliability for firefighting purposes.

4.0 FIRE PROTECTION SYSTEMS

- ☒ 4.1 On-site private fire hydrants are required per Standard #D-005, and identified in accordance with Standard #D-002. Installation and locations(s) are subject to the approval of the Fire Department. An application with detailed plans shall be submitted, and a construction permit shall be issued by the Fire Department, prior to any work being done.
- ☒ 4.3 An automatic fire sprinkler system is required. The system design shall be in accordance with National Fire Protection Association (NFPA) Standard 13R. All new fire sprinkler systems, except those in single family dwellings, which contain twenty (20) sprinkler heads or more shall be monitored by an approved listed supervising station. An application along with detailed plans shall be submitted, and a construction permit shall be issued by the Fire Department, prior to any work being done.
- ☒ 4.4 Fire Department Connections (FDC) shall be located on the address side of the building within one hundred fifty feet (150') of a public fire hydrant on the same side of the street. Provide identification for all fire sprinkler control valves and fire department connections per Standard #D-007. Raised curbs adjacent to Fire Department connection(s) shall be painted red, five feet either side, per City standards.
- ☒ 4.6 Portable fire extinguishers are required to be installed prior to occupancy per Standard #C-001. Please contact the Fire Prevention Bureau to determine the exact number, type and placement required.

5.0 BUILDING CONSTRUCTION FEATURES

- ☒ 5.1 The developer/general contractor is to be responsible for reasonable periodic cleanup of the development during construction to avoid hazardous accumulations of combustible trash and debris both on and off the site.
- ☒ 5.2 Approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Multi-tenant or building projects shall have addresses and/or suite numbers provided on the rear of the building. Address numbers shall contrast with their background. See Section 9-1 6.06 of the Ontario Municipal Code and Standards #H-003 and #H-002.
- ☒ 5.3 Single station smoke alarms and carbon monoxide alarms are required to be installed per the California Building Code and the California Fire Code.
- ☒ 5.4 Multiple unit building complexes shall have building directories provided at the main entrances. The directories shall be designed to the requirements of the Fire Department, see Section 9-1 6.06 of the Ontario Municipal Code and Standard #H-003.
- ☒ 5.5 All residential chimneys shall be equipped with an approved spark arrester meeting the requirements of the California Building Code.
- ☒ 5.6 Knox ® brand key-box(es) shall be installed in location(s) acceptable to the Fire Department. All Knox boxes shall be monitored for tamper by the building fire alarm system. See Standard #H-001 for specific requirements.



CITY OF ONTARIO MEMORANDUM

ENGINEERING DEPARTMENT CONDITIONS OF APPROVAL

(Engineering Services Division [Land Development and Environmental], Traffic/Transportation Division,
Ontario Municipal Utilities Company and Management Services Department)

DATE: **January 26, 2017**

DAB MEETING DATE: **February 22, 2017**

PROJECT ENGINEER: **Naiim Khoury, Associate Engineer
909.395.2152**

PROJECT PLANNER: **Henry Noh, Senior Planner
909.395.2429**

PROJECT: **PDEV16-052; A Development Plan to construct 163 multi-family dwellings within The Avenue Specific Plan. Related Files; Tract Map Nos. TM18922-4 (A-Map) and TM20061/PMTT16-020 (B-Map).**

APPLICANT: **BrookCal Ontario, LLC – Brookfield Residential**
LOCATION: **Southwest corner of Ontario Ranch Road and New Haven Drive**

This project shall comply with the requirements set forth in the General Standard Conditions of Approval adopted by the City Council (Resolution No. 2010-021) and the Project Specific Conditions of Approval specified herein. The Applicant shall be responsible for the completion of all conditions prior to issuance of permits and/or occupancy clearance.

- 1) Design and construct full public improvements as required by the Conditions of Approval for TM18922-4 and TM20061, and the Development Agreement by and between City of Ontario and BrookCAL Ontario, LLC.
- 2) Proposed retaining walls shall retain up to a maximum of three (3) feet of earth. In no case shall a wall exceed an overall height of nine (9) feet (i.e. maximum 6-foot high wall on top of a maximum 3-foot high retaining wall).
- 3) The applicant/developer shall be responsible to design and construct in-tract and off-tract (along New Haven Drive) fiber optic conduit system and connect to the existing fiber optic system constructed per TM18922.



N. Khoury 1-26-17
Naiim Khoury Date
Associate Engineer

[Signature] 1-30-17
Khoi Do, P. E. Date
Assistant City Engineer

- c: Khoi Do, P.E., Engineering/Land Development
 Stephen Wilson, Engineering/Environmental
 Larry Tay, Engineering/Traffic
 Sheldon Yu, Ontario Municipal Utility Company



**PLANNING COMMISSION
STAFF REPORT**
February 28, 2017

SUBJECT: An interagency billboard relocation agreement (File No. PSGN17-016) to remove six billboards and allowing the placement of a new billboard at 1550 N. Palmetto Avenue. (APNs: 110-022-12, 110-131-19, 210-212-60, 1008-261-45, 1011-111-10, and 1011-182-10); **submitted by City of Ontario, San Bernardino County Transportation Authority, and Lamar Central Outdoor, LLC. City Council action is required.**

PROPERTY OWNER: Various

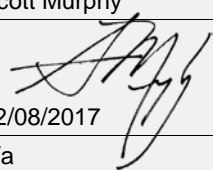
RECOMMENDED ACTION: That the Planning Commission recommend approval of File No. PSGN17-016 to the City Council, pursuant to the facts and reasons contained in the staff report and attached resolution.

PROJECT ANALYSIS:

[1] Background — Dating back to the 1980’s, the City has prohibited the placement of new billboards to reduce/minimize visual impacts along major transportation corridors. In 2003, the City Council approved provisions for billboard relocation agreements wherein a billboard company could agree to remove two billboards in the City in exchange for the placement of one new billboard. The potential relocation sites were limited to a small portion of the community. Through this process, two new billboards have been constructed at the entry to the Ontario International Airport and four billboards along major arterials were removed.

Towards the end of 2015, the San Bernardino County Transportation Authority (SBCTA), the regional transportation authority, approached the City about the relocation of a billboard to the City from a location outside City limits to facilitate needed freeway interchange improvements. While the City recognized that billboard acquisition and/or relocation can be a very expensive, the City needed to ensure that there was a benefit to the City to enter into such an agreement. As a result, criteria was established that would allow for an “Interagency Relocation Agreement”, under very specific terms. Through the adoption of Ordinance No. 3037 on January 19, 2016, the City Council approved the addition of a Development Code Section that would read as follows:

- (A) A billboard may be relocated from outside the City to any location within the City pursuant to an agreement, approved at the discretion of the City Council, between the City and another public agency so long as the following findings can be met:

Case Planner:	Scott Murphy	Hearing Body	Date	Decision	Action
Planning Director Approval:		DAB	n/a		
Submittal Date:	02/08/2017	ZA			
Hearing Deadline:	n/a	PC	02/28/2017		Recommend
		CC			Final

- (1) The billboard's relocation is necessitated by work being performed on the same freeway as the planned new site for the billboard;
- (2) A minimum of six (6) existing, legal nonconforming billboards shall be removed, at least five (5) of which must be currently located within the City; and
- (3) The public health, safety, and welfare are not impaired by the relocation.

[2] Relocated Billboard — As part of improvements to the Interstate 10 (I-10)/Interstate 215 (I-215) interchange, SBCTA identified the need to remove/relocate two billboards. One of the billboards has already been addressed but SBCTA found themselves in need of a solution to address the second billboard. Working with the billboard owner, Lamar Central Outdoor, LLC ("Lamar"), and the City, several potential sites were identified along the I-10 corridor that might meet the needs of SBCTA and Lamar. Through negotiations with the property owners, the sites were narrowed to one potential site on the south side of I-10, east of Mountain Avenue, at 1550 N. Palmetto Avenue. The sign is proposed at the northwest corner of the site, at the east end of the freeway on-ramp on property. The property is currently developed with a church, is surrounded by commercial and institutional uses and is approximately 700 feet from the nearest residential uses.

[3] Billboard Removal — In addition to the billboard sign at the I-10/I-215 interchange, the following billboards will be removed from the City:

- (A) Billboard No. [2]. S/L Interstate 10 at Haven Boulevard. (APN: 210-212-60)
- (B) Billboard No. [3]. Southeast corner of the intersection of Holt and Grove Avenue. (APN: 110-131-19)
- (C) Billboard No. [4]. Mountain Avenue north of Mission. (APN: 1011-182-10)
- (D) Billboard No. [5]. Southeast corner of intersection of Holt Boulevard and Benson Avenue. (APN: 1011-111-10)
- (E) Billboard No. [6]. Vineyard Avenue south of D Street. (APN: 110-022-12)

[4] Architecture Design — The relocated billboard proposed will be a double-sided LED billboard, provided in a "V" shape to provide visibility for both east and west bound traffic. The billboard incorporates a wrap around the support column with some architectural elements. Conceptual designs are included as Exhibit "B" of the billboard relocation agreement. Staff is continuing to work with Lamar on refinements to the design of the billboard.

COMPLIANCE WITH THE ONTARIO PLAN: The proposed project is consistent with the principles, goals and policies contained within the Vision, Governance, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan (TOP). More specifically, the goals and policies of TOP that are furthered by the proposed project are as follows:

[1] City Council Priorities

- Invest in the Growth and Evolution of the City's Economy
- Operate in a Businesslike Manner
- Pursue City's Goals and Objectives by Working with Other Governmental Agencies
- Focus Resources in Ontario's Commercial and Residential Neighborhoods

[2] Vision.

Distinctive Development:

- Commercial and Residential Development
 - Development quality that is broadly recognized as distinctive and not exclusively tied to the general suburban character typical of much of Southern California.

[3] Governance.

Decision Making:

- Goal G1: Sustained decision-making that consistently moves Ontario towards its Vision by using The Ontario Plan as a framework for assessing choices.

➤ G1-2 Long-term Benefit. We require decisions to demonstrate and document how they add value to the community and support the Ontario Vision

External Factors:

- Goal G4: Constant diligence in dealing with external factors impacting Ontario in a manner that contributes to the Ontario Vision.

➤ Policy G4-6 Interagency Cooperation. We shall participate with regional governments, surrounding cities and other agencies in devising optimum strategies for addressing external factors of mutual interest.

[4] Policy Plan (General Plan)

- Goal LU2: Compatibility between a wide range of uses.

- LU2-6: Infrastructure Compatibility: We require infrastructure to be aesthetically pleasing and in context with the community character.

Community Design Element:

- Goal CD1: A dynamic, progressive city containing distinct neighborhoods and commercial districts that foster a positive sense of identity and belonging among residents, visitors, and businesses.

- CD1-1 City Identity. We take actions that are consistent with the City being a leading urban center in Southern California while recognizing the diverse character of our existing viable neighborhoods.

- CD2-1 Quality Architecture. We encourage all development projects to convey visual interest and character through:

- Building volume, massing, and height to provide appropriate scale and proportion;
- Exterior building materials that are visually interesting, high quality, durable, and appropriate for the architectural style.

- CD2-13 Entitlement Process. We work collaboratively with all stakeholders to ensure a high degree of certainty in the efficient review and timely processing of all development plans and permits.

HOUSING ELEMENT COMPLIANCE: The project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan, as the project site is not one of the properties in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix.

AIRPORT LAND USE COMPATIBILITY PLAN (ALUCP) COMPLIANCE: The project site is located within the Airport Influence Area of the Ontario International Airport (ONT), and has been found to be consistent with the policies and criteria set forth within the ALUCP for ONT.

ENVIRONMENTAL REVIEW: The project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15332 (Class 32 – In-Fill Development Projects) of the CEQA Guidelines, which consists of projects that are:

- 1) Consistent with the General Plan
- 2) On a site of no more than five acres;
- 3) Has no habitat value for endangered, rare or sensitive species
- 4) Would not result in a significant impact to traffic, noise, air quality or water quality;
and
- 5) Is served by utilities.

**BILLBOARD REMOVAL AND RELOCATION AGREEMENT AMONG THE CITY OF
ONTARIO, SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY, AND
LAMAR CENTRAL OUTDOOR, LLC**

1. PARTIES.

This Billboard Relocation Agreement (“Agreement”) is made this ___ day of _____, 2017, among the City of Ontario (“Ontario”), San Bernardino County Transportation Authority (“SBCTA”), and Lamar Central Outdoor, LLC, a Delaware Limited Liability Company (“Lamar”). Ontario, SBCTA, and Lamar are referred to collectively as “Parties.”

2. RECITALS.

2.1 WHEREAS, Ontario has, consistent with the California Outdoor Advertising Act (California Business & Professions Code, § 5200 et seq.), adopted certain regulations concerning outdoor advertising displays (“Billboards”) as part of the Ontario Development Code (“ODC”), including a prohibition on new Billboards (ODC, § 8.01.015), provisions governing the relocation of Billboards (ODC, § 44.02.010), and a specific provision relating to inter-agency relocation agreements (ODC, § 4.02.010(F)(2)(f)); and

2.2 WHEREAS, the California Outdoor Advertising Act generally provides that compensation must be paid to Billboard owners for the removal, abatement or limitation of the customary maintenance, use or repair of certain lawfully erected Billboards; and

2.3 WHEREAS, the California Outdoor Advertising Act also contains language providing that “it is the policy of the State of California to encourage local entities to continue development in a planned manner without expenditure of public funds while allowing the continued maintenance or private investment and a medium of public communication.” As a result, “. . . local entities are specifically empowered to enter into relocation agreements on whatever terms are agreeable to the display owner and the city . . . and adopt ordinances and resolutions providing for relocation of displays”; and

2.4 WHEREAS, Lamar maintains five Billboards within Ontario which it is willing and able to permanently remove (“Preexisting Billboards”); and

2.5 WHEREAS, Lamar maintains a Billboard within the City of Colton that meets the candidacy requirements for relocation to Ontario under Section 4.02.010(F)(2)(f) of the ODC because it is proposed to be removed as a result of work being performed by SBCTA on the I-10 freeway (“Colton Billboard”); and

2.6 WHEREAS, Ontario is willing to accommodate the relocation of the Colton Billboard to Ontario in exchange for the removal of the Preexisting Billboards in accordance with Section 4.02.010(F)(2)(f) of the ODC.

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants hereinafter contained and for good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

3. EFFECTIVE DATE AND TERM.

3.1 This Agreement shall be effective upon execution of this Agreement by all Parties (“Effective Date”).

3.2 This Agreement shall be effective until all obligations hereunder are complete.

4. TERMS.

4.1 Incorporation of Recitals and Exhibits. All recitals and the exhibits attached hereto are referred to in this Agreement are incorporated as though fully set forth in this Agreement.

4.2 Removal of Preexisting Billboards. Within ninety (90) days following the issuance of all permits necessary for the relocation of the Colton Billboard to Ontario described in Section 4.3, Lamar shall secure the legal right to remove, at its sole cost and expense, the following billboards, herein defined as Preexisting Billboards, and their associated support structures and components:

- A. Billboard No. [1]. Interstate 10 / Interstate 215 Interchange (“Colton Billboard”).
- B. Billboard No. [2]. S/L Interstate 10 at Haven Boulevard. (APN: 210-212-60)
- C. Billboard No. [3]. Southeast corner of the intersection of Holt and Grove Avenue. (APN: 110-131-19)
- D. Billboard No. [4]. Mountain Avenue north of Mission. (APN: 1011-182-10)
- E. Billboard No. [5]. Southeast corner of intersection of Holt Boulevard and Benson Avenue. (APN: 1011-111-10)
- F. Billboard No. [6]. Vineyard Avenue south of D Street. (APN: 110-022-12)

4.3 Relocation of Colton Billboard. In consideration for Lamar's actions as described in Section 4.2 above, Lamar shall be permitted to relocate the Colton Billboard to the area shown on the site plan ("Relocation Site") attached hereto as Exhibit "A" to this Agreement. The Colton Billboard shall be relocated in compliance with the plans and specifications attached hereto as Exhibit "B" to this Agreement. Lamar agrees and understands that the relocation of the Colton Billboard may be subject to certain discretionary and environmental approvals issued by Ontario. Nothing contained herein shall be interpreted to require Ontario to approve the Colton Billboard. Ontario's obligations with respect to this section shall be to review and consider approval, in good faith and as expeditiously as possible, the relocation of the Colton Billboard. The failure of Ontario to approve the relocation of the Colton Billboard shall not subject Ontario to the payment of compensation or monetary payment for the removal of any Billboard. Lamar understands and agrees that it is not entitled to nor shall it seek compensation or monetary payment of any type or relocation benefits, as may be provided by state or federal law for the removal of any Preexisting Billboard, from either Ontario or SBCTA. Lamar assumes all risks in removing any Preexisting Billboard described in this Agreement prior to the receipt of any discretionary approval required for the relocation of the Colton Billboard.

4.4 Advertising Limitation. Lamar voluntarily covenants and agrees for itself, its successors and assigns, that any advertising displayed on the relocated Colton Billboard shall not contain any advertising for adult entertainment or nudity including, but not limited to, topless bars, nightclubs, establishments that feature nude dancing, mud wrestling, any adult business featuring retail sales of adult novelty items, books, magazines, videos and tapes, or any material that could be reasonably considered pornographic. Further, Lamar voluntarily covenants and agrees for itself, its successors and assigns, that any advertising displayed on the relocated Colton Billboard shall not contain any advertising for alcohol or tobacco products of any type, gambling or gambling services, or any political messages or advertising. Notwithstanding the foregoing, gambling establishments may advertise non-gaming/gambling services. Ontario further reserves the right to object to any other advertising that may be considered detrimental to the image of Ontario. In such cases, Ontario shall inform Lamar in writing of the offensive advertising and request that it be removed. Lamar shall not unreasonably deny the request.

4.5 Maintenance and Operation of Colton Billboard. Lamar shall at its sole cost and expense pay for all maintenance and operation costs associated with operating the Colton Billboard upon relocation. Should the Colton Billboard and the surrounding sites not be maintained in accordance with all laws, codes, and ordinances, Ontario shall provide Lamar with thirty (30) days' notice to comply with such laws, code, and ordinances before Lamar shall be required to remove the Colton Billboard at its sole cost and expense.

4.6 Indemnification of Ontario. Lamar shall defend, indemnify and hold Ontario, its officials, officers, and agents free and harmless from any and all claims, liabilities, losses, costs, expenses, damages, injuries to property or persons, including wrongful death, in any manner arising out of or incident to any negligent acts, omissions or willful misconduct of Lamar, its officers and employees, agents, consultants and contractors arising out of or in connection with

this Agreement or the removal, past-removal, construction, relocation, and installation of the Preexisting Billboards and Colton Billboard, including without limitation, the payment of all consequential damages, attorneys' fees and other related costs and expenses. At a minimum, this indemnification provision shall apply to the fullest extent of any warranty or guarantee implied by law or fact, or otherwise given to Indemnifying Parties by their contractors for the removal, past-removal, construction, relocation, and installation of the Preexisting Billboards and Colton Billboard. In addition, this indemnity provision and any such warranties or guarantees shall not limit any liability under law of such contractors. Without limiting the foregoing, this indemnity shall extend to any claims arising because Lamar has failed to properly secure any necessary contracts or permit approvals.

4.7 Assignment Without Consent Prohibited. This Agreement may not be assigned by any Party without the express written consent of the other Parties, and consent shall not be unreasonably withheld. Any attempted assignment of this Agreement not in compliance with the terms of this Agreement shall be null and void and shall confer no rights or benefits upon the assignee.

4.8 Permit Fees and Submittal of Plans. Lamar hereby agrees to pay any and all permit fees associated with the required removal of any Preexisting Billboard and the relocation of the Colton Billboard. Lamar also agrees to submit any plans, studies, specifications, engineering studies and calculations needed by Ontario as part of its review of the removal of any Preexisting Billboard and the relocation of the Colton Billboard. Ontario's obligations with respect to the processing of any application shall be contingent upon payment by Lamar of any such fees and the submittal of necessary plans.

4.9 Attorneys' Fees. In the event of any action or proceeding, including arbitration, by any of the Parties to this Agreement against another Party for recovery of any sum due under this Agreement, or to enforce any of the terms, covenants or conditions contained herein, the prevailing Party in any such action or proceeding shall be entitled to reasonable attorneys' fees and costs of litigation, including, without limitation, filing fees, service fees, deposition costs and arbitration costs, in addition to all other legal and equitable remedies available to it. Each Party shall give prompt notice to the other Parties of any claim or suit instituted against it that may affect the other Parties.

4.10 Waiver. The waiver of any Party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of any other term, covenant, or condition, or of any subsequent breach of the same term, covenant, or condition. However, nothing contained in this Agreement shall be deemed to be an acknowledgment or acceptance by Ontario or SBCTA that compensation is owed as to any Billboard, either in whole or in part, to any Party having an interest in any of the Billboards herein.

4.11 Waiver of Civil Code Section 1542. It is the intention of the Parties that the releases entered into as part of this Agreement shall be effective as a bar to all actions, causes of action,

obligations, costs, expenses, attorneys' fees, damages, losses, claims, liabilities and demands of any character, nature and kind, known or unknown, suspected or unsuspected, to be so barred; in furtherance of which intention the Parties expressly waive any and all right and benefit conferred upon them by the provisions of section 1542 of the California Civil Code, which reads as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

4.12 Notices. All notices shall be in writing and addressed as follows:

- A. To Ontario: City Manager, City of Ontario, 303 East B Street, Ontario, CA 91764.
- B. To SBCTA: Director of Project Delivery, San Bernardino County Transportation Authority, 1170 W. 3rd Street, 2nd Floor, San Bernardino, CA 92410-1715.
- C. To LAMAR: Lamar Central Outdoor, LLC, Attn: Randy Straub, General Manager, 24541 Redlands Blvd., Loma Linda, CA 92354.

All notices shall be deemed made when personally delivered or when mailed forty-eight (48) hours after each deposit in the U.S. mail, first-class postage prepaid and addressed to Party as its applicable address.

4.13 Authority to Enter Agreement. All Parties have all requisite power and authority to execute, deliver, and perform the Agreement. All Parties warrant that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

4.14 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days or calendar weeks, and not work days. All references to any Party shall include its respective directors, elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

4.15 Amendment/Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by all Parties.

4.16 No Third-Party Beneficiaries. There are no intended third-party beneficiaries of any right or obligation assumed by the Parties.

4.17 Invalidity/Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

4.18 Governing Law and Venue. This Agreement shall be governed by the laws of the State of California. Venue shall be in San Bernardino County.

4.19 Time is of the Essence. Time is of the essence in each and every provision of this Agreement.

4.20 Entire Agreement. This Agreement contains the entire Agreement of the Parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Agreement may only be modified by a writing signed by both Parties.

4.21 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

4.22 Binding Agreement. Subject to any limitation on assignment elsewhere set forth herein, all terms of this Agreement shall be binding upon, inure to be benefit of, and be enforceable by the Parties hereto and their respective legal representatives, successors and assigns.

[SIGNATURES ON FOLLOWING PAGE]

**SIGNATURE PAGE TO
BILLBOARD REMOVAL AND RELOCATION AGREEMENT AMONG THE CITY OF
ONTARIO, SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY, AND
LAMAR CENTRAL OUTDOOR, LLC**

CITY OF ONTARIO

LAMAR CENTRAL OUTDOOR, LLC

Al C. Boling, City Manager

[Name, Title]

ATTEST:

City Clerk

[Name, Title]

APPROVED AS TO FORM:

City Attorney

SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

Raymond Wolfe, Executive Director

ATTEST:

Board Clerk

APPROVED AS TO FORM:

Craig G. Farrington/Alyson C. Suh

**EXHIBIT A
RELOCATION SITE PLAN**

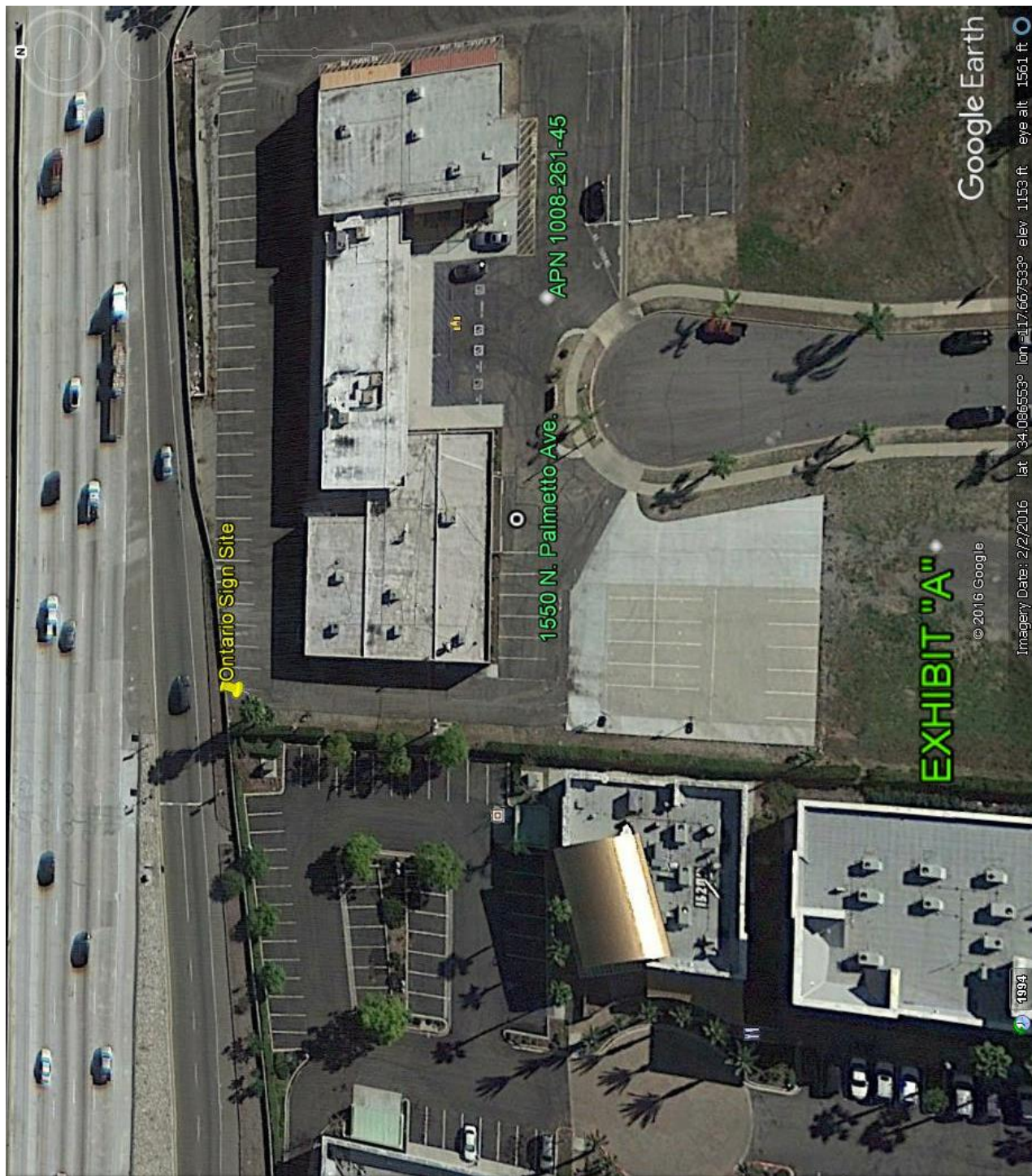


EXHIBIT B
CONCEPTUAL PLANS AND SPECIFICATIONS
FOR RELOCATION OF COLTON BILLBOARD

[on following pages]

5' x 5' x 35' tall, Aluminum pole cover column.

.090" thick aluminum panel construction with internal angle iron framing supports.

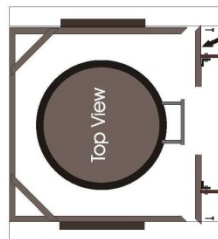
Primary 5' x 5' section to have textured finish painted brown.

Shorter accent blades to be 1/8" thick each x 17" wide x 33' tall. To have textured finish painted Rust Brown.

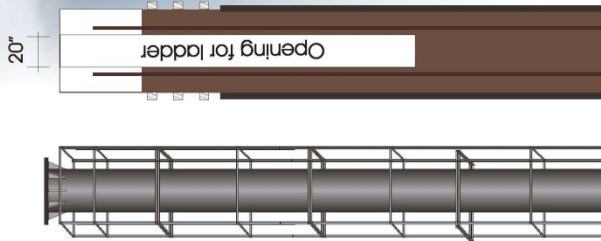
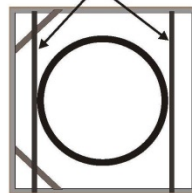
Vertical front accent to be 30" wide x 22' tall x 2" deep, textured & painted Deep Brown.

6" x 6" square horizontal aluminum accents to be painted white.

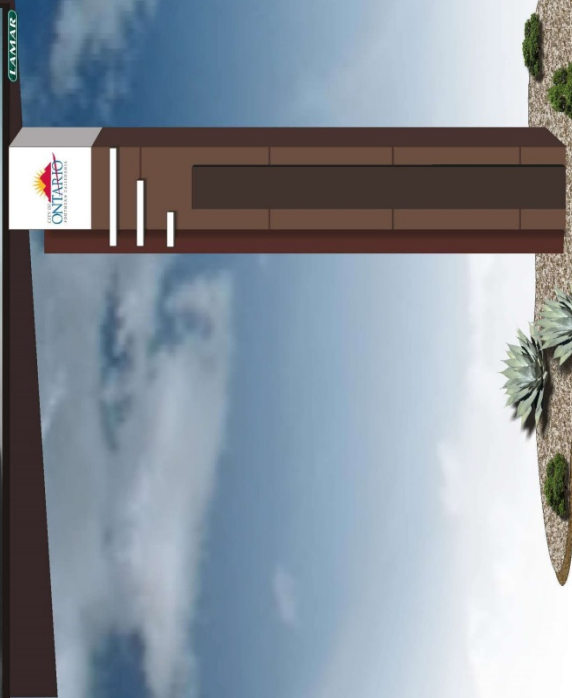
Pole cover welded to pipe.



Removable end sections on this side only.



DATE: 01-20-17
DRAWN BY: JENNIFER HAYES
PROJECT: 3019905.1



1-20-17

6' x 6' x 35' tall, Aluminum pole cover column.

.090" thick aluminum panel construction with internal angle iron framing supports.

Primary 6' x 6' section to have textured finish painted Med Gray.

Vertical front accent to be 8" x 8" square alum, with brushed finish

City of Ontario sign to be 8' square white background with light gray background grid pattern.

Copy to be raised with painted finish.

Top and bottom framing to have brushed aluminum finish.

Pole cover welded to pipe.



1-20-17

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA RECOMMENDING CITY COUNCIL APPROVAL OF FILE NO. PSGN 17-016, A BILLBOARD RELOCATION AGREEMENT BETWEEN THE CITY OF ONTARIO, SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY AND LAMAR CENTRAL OUTDOOR, LLC AND MAKING FINDINGS IN SUPPORT THEREOF (APNS: 110-022-12, 110-131-19, 210-212-60, 1008-261-45, 1011-111-10, AND 1011-182-10).

WHEREAS, Ontario has, consistent with the California Outdoor Advertising Act (California Business & Professions Code, '5200 et seq.), adopted certain regulations concerning outdoor advertising displays ("Billboards"), including a complete prohibition on new Billboards; and

WHEREAS, the California Outdoor Advertising Act generally provides that compensation must be paid to Billboard owners for the removal, abatement or limitation of the customary maintenance, use or repair of certain lawfully erected Billboards; and

WHEREAS, the California Outdoor Advertising Act also contains language providing that "[I]t is the policy of the State of California to encourage local entities to continue development in a planned manner without expenditure of public funds while allowing the continued maintenance or private investment and a medium of public communication." As a result, "...local entities are specifically empowered to enter into relocation agreements on whatever terms are agreeable to the display owner and the city ... and to adopt ordinances and resolutions providing for relocation of displays"; and

WHEREAS, on January 19, 2016, the City Council of the City of Ontario adopted its Ordinance No. 3037, establishing specific provisions relating to inter-agency billboard relocation agreements; and

WHEREAS, Lamar Central Outdoor, LLC ("Lamar") maintains an existing Billboard at the Interstate 10/215 interchange within the City of Colton ("Colton Billboard") that is in conflict with proposed freeway interchange improvements proposed by San Bernardino County Transportation Authority ("SBCTA"). If a suitable relocation site is not identified, SBCTA will be required to compensate Lamar for the loss of the billboard, thereby increasing the cost of the interchange project; and

WHEREAS, the Colton Billboard meets the criteria for relocation established under the provisions for inter-agency relocation agreements; and

WHEREAS, Lamar maintains several billboards within the city, some of which it is willing to permanently remove ("Preexisting Billboards"); and

WHEREAS, Ontario is willing to accommodate the relocation of the Colton Billboard within the city in exchange for the removal of five Preexisting Billboards as identified in the Billboard Relocation Agreement; and

WHEREAS, as the recommending body, the Planning Commission has reviewed this agreement and recommends approval, based on the following findings as contained in the City's Sign Ordinance and Ordinance 3037; and

WHEREAS, on February 28, 2017, the Planning Commission of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED, AND RESOLVED by the Planning Commission of the City of Ontario, as follows:

SECTION 1. Environmental Determination and Findings. As the recommending body for the Project, the Planning Commission has reviewed and considered the information contained in the administrative record for the Project. Based upon the facts and information contained in the administrative record, including all written and oral evidence presented to the Planning Commission, the Planning Commission finds as follows:

a. The Project is categorically exempt from environmental review pursuant to Section 15332 (Class 32—In-fill development) of the CEQA Guidelines; and

b. The application of the categorical exemption is not barred by one of the exceptions set forth in CEQA Guidelines Section 15300.2; and

c. The determination of CEQA exemption reflects the independent judgment of the Historic Preservation Commission.

SECTION 2. Housing Element Consistency. Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as the recommending body for the Project, the Planning Commission finds that based upon the facts and information contained in the Application and supporting documentation, at the time of Project implementation, the Project will be consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan, as the project does not specifically affect the properties in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix.

SECTION 3. Airport Land Use Compatibility Plan (ALUCP) Consistency. As the recommending body for the Project, the Planning Commission has reviewed and considered the facts and information contained in the Application and supporting documentation, and finds that, at the time of Project implementation, the Project will be consistent with the policies and criteria set forth within the ONT ALUCP.

SECTION 4. Concluding Facts and Reasons. Based upon the substantial evidence presented to the Planning Commission during the above-referenced hearing, and upon the specific findings set forth in Section 1 through 3 above, the Planning Commission hereby concludes as follows:

- (A) The proposed agreement is consistent with the goals, objectives, purposes and provisions of the Ontario General Plan, the Ontario Development Code, and any applicable specific plan;
- (B) The proposed relocation site is compatible with uses and structures on the site and in the surrounding area;
- (C) The proposed agreement contributes to the reduction of visual clutter in the City by reducing the net number of billboards within the City by five (5);
- (D) The proposed site complies with the relocation criteria listed in that the billboard's relocation is necessitated by work being performed on the same freeway (Interstate 10) as the planned new site for the billboard; and
- (E) The public health, safety, and welfare are not impaired by the relocation.

SECTION 5. Planning Commission Action. Based upon the findings and conclusions set forth in Sections 1 through 4 above, the Planning Commission hereby RECOMMENDS APPROVAL to the City Council of the herein described Application subject to each and every condition set forth in the Department Conditions of Approval, attached hereto and incorporated herein by this reference.

SECTION 6. Indemnification. The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void, or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action, or proceeding, and the City of Ontario shall cooperate fully in the defense.

SECTION 7. Custodian of Records. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 8. **Certification to Adoption.** The Secretary shall certify to the adoption of the Resolution.

The Secretary Pro Tempore for the Planning Commission of the City of Ontario shall certify as to the adoption of this Resolution.

I hereby certify that the foregoing Resolution was duly and regularly introduced, passed and adopted by the Planning Commission of the City of Ontario at a regular meeting thereof held on the 28th day of February 2017, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.

Jim Willoughby
Planning Commission Chairman

ATTEST:

Scott Murphy
Planning Director/Secretary of Planning
Commission

Planning Commission Resolution
File No. PSGN17-016
February 28, 2017
Page 5

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, Marci Callejo, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC17-[insert #] was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on February 28, 2017, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marci Callejo
Secretary Pro Tempore



**PLANNING COMMISSION
STAFF REPORT**
February 28, 2017

SUBJECT: A Tentative Parcel Map (File No. PMTT16-010; PM 19725) to subdivide 40.10 acres of land into 4 numbered lots and 1 lettered lot within the Regional Commercial/Mixed Use district (Planning Area 8A) of the Rich-Haven Specific Plan, located at the southeast corner of Ontario Ranch Road and Mill Creek Avenue. APNs: 0218-211-12 and 0218-211-25; **submitted by GDIC-RCCD2-L.P.**

PROPERTY OWNER: GDIC-RCCD2-L.P.

RECOMMENDED ACTION: That the Planning Commission approve File No. PMTT16-010, pursuant to the facts and reasons contained in the staff report and attached resolution, and subject to the conditions of approval contained in the attached departmental reports.

PROJECT SETTING: The project site is comprised of 40.10 acres of land located at the southeast corner of Ontario Ranch Road and Mill Creek Avenue, within the Regional Commercial/Mixed Use district of Planning Area 8A, and is depicted in **Figure 1: Project Location**, below. The project site gently slopes from north to south and is currently vacant. The properties to the north, east and west of the project site are within the Regional Commercial/Mixed Use district of Planning Areas 7, 8A and 8b of the Rich-Haven Specific Plan and the Agricultural Overlay (AG) zoning districts and are vacant or currently developed with agricultural uses. The property to the south is within the Multi-Family Rowtown Residential district of Planning Area 1 of the Esperanza Specific Plan and is currently developed with agricultural/dairy uses.



Figure 1: Project Location

PROJECT ANALYSIS:

[1] Background — On December 4, 2007, the City Council approved the Rich-Haven Specific Plan (File No. PSP05-

Case Planner:	Henry K. Noh	Hearing Body	Date	Decision	Action
Planning Director Approval:		DAB	2/22/17	Approve	Recommend
Submittal Date:	4/7/16	ZA			
Hearing Deadline:	N/A	PC	2/28/17		Final
		CC			

004) and certified the Environmental Impact Report (EIR) for the Specific Plan. The Specific Plan established the land use designations, development standards, and design guidelines for approximately 512 acres of land, which included the potential development of 4,256 residential units and 889,200 square feet of commercial/office.

Subsequently, on March 15, 2016, the City Council approved an amendment to the Rich-Haven Specific Plan (File No. PSPA16-001) that increased the residential units to 4,866 and increased the commercial/office area to 1,039,200 square feet. Additionally, the specific plan amendment reconfigured and encompassed property ownership for Planning Areas 1 thru 8B to provide a more effective way of mapping and developing each Planning Area (see **Figure 2: Rich-Haven Specific Plan Land Use Map**, below).

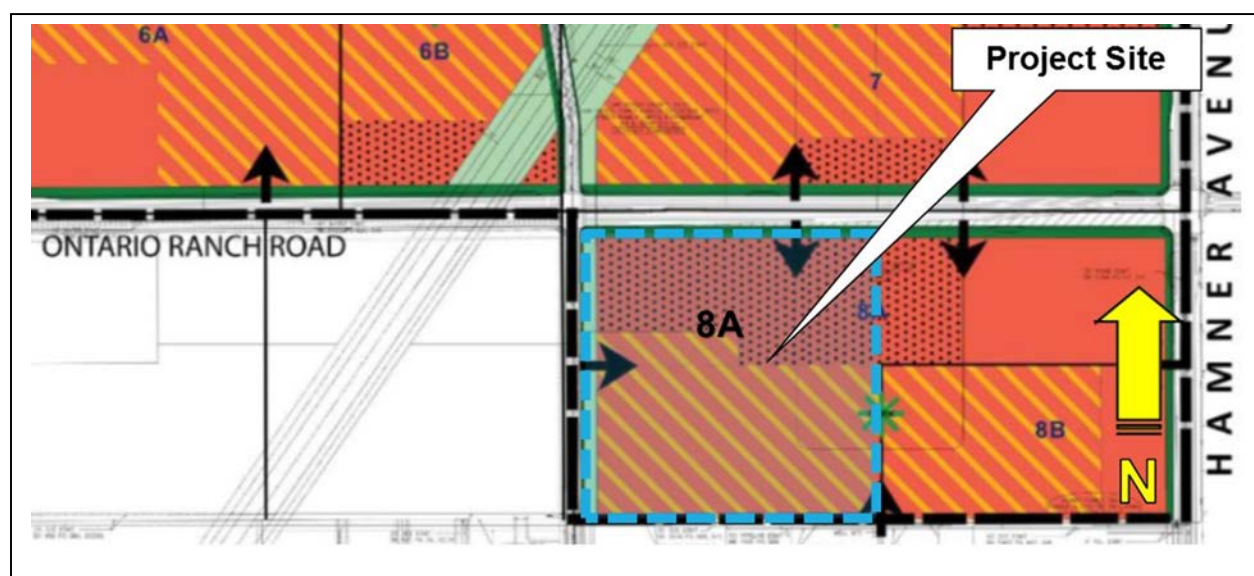


Figure 2: Rich-Haven Specific Plan Land Use Map

The Applicant, GDIC-RCCD2-L.P., has submitted a Tentative Parcel Map (File No. PMTT16-010) to subdivide 40.10 acres of land into 4 numbered lots and 1 lettered lot within the Regional Commercial/Mixed Use district (Planning Area 8A) of the Rich-Haven Specific Plan, located at the southeast corner of Ontario Ranch Road and Mill Creek Avenue. The development of the parcels will require a development plan that will be brought before the Planning Commission at a future date.

[2] Parcel Map Subdivision – The proposed Tentative Parcel Map (PM19725) will provide future Regional Commercial/Mixed Use development opportunities within the southeastern portion of the Rich-Haven Specific Plan as illustrated in (**Exhibit A: Tentative Parcel Map 19725**). The Tentative Parcel Map proposes four lots as follows:

1. Lot 1: 9.57 acres;
2. Lot 2: 9.53 acres;

3. Lot 3: 9.57 acres; and
4. Lot 4: 9.05 acres.

The Rich-Haven Specific Plan does not require a minimum lot size, however the Specific Plan states that the lot size shall be large enough to meet all Development Standards and to accommodate the minimum commercial threshold of 95,000 square feet for Planning Area 8A. The proposed lot sizes are sufficient to accommodate free standing residential and commercial development, as well as mixed use developments.

[3] Site Access/Circulation — The proposed Tentative Parcel Map will facilitate the construction of the backbone streets and primary access points into site from Ontario Ranch Road and Mill Creek Avenue. On-site circulation will be reviewed in conjunction with the future Development Plan application.

COMPLIANCE WITH THE ONTARIO PLAN: The proposed project is consistent with the principles, goals and policies contained within the Vision, Governance, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan (TOP). More specifically, the goals and policies of TOP that are furthered by the proposed project are as follows:

[1] City Council Goals.

- Invest in the Growth and Evolution of the City's Economy
- Operate in a Businesslike Manner
- Focus Resources in Ontario's Commercial and Residential Neighborhoods
- Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)
 - Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in the New Model Colony

[2] Vision.

Distinctive Development:

- Commercial and Residential Development
 - Development quality that is broadly recognized as distinctive and not exclusively tied to the general suburban character typical of much of Southern California.

[3] Governance.

Decision Making:

- Goal G1: Sustained decision-making that consistently moves Ontario towards its Vision by using The Ontario Plan as a framework for assessing choices.

➤ G1-2 Long-term Benefit. We require decisions to demonstrate and document how they add value to the community and support the Ontario Vision

[4] Policy Plan (General Plan)

Land Use Element:

▪ Goal LU1: A community that has a spectrum of housing types and price ranges that match the jobs in the City and that make it possible for people to live and work in Ontario and maintain a quality of life.

➤ LU1-1 Strategic Growth. We concentrate growth in strategic locations that help create place and identity, maximize available and planned infrastructure, and foster the development of transit.

➤ LU1-6 Complete Community: We incorporate a variety of land uses and building types in our land use planning efforts that result in a complete community where residents at all stages of life, employers, workers and visitors have a wide spectrum of choices of where they can live, work, shop and recreate within Ontario. (Refer to Complete Community Section of Community Economics Element).

▪ Goal LU2: Compatibility between a wide range of uses.

➤ LU2-6: Infrastructure Compatibility: We require infrastructure to be aesthetically pleasing and in context with the community character.

Housing Element:

▪ Goal H2: Diversity of types of quality housing that are affordable to a range of household income levels, accommodate changing demographics, and support and reinforce the economic sustainability of Ontario.

➤ H2-4 New Model Colony. We support a premier lifestyle community in the New Model Colony distinguished by diverse housing, highest design quality, and cohesive and highly amenitized neighborhoods.

➤ H2-5 Housing Design. We require architectural excellence through adherence to City design guidelines, thoughtful site planning, environmentally sustainable practices and other best practices.

▪ Goal H5: A full range of housing types and community services that meet the special housing needs for all individuals and families in Ontario, regardless of income level, age or other status.

Community Economics Element:

- Goal CE1: A complete community that provides for all incomes and stages of life.
 - CE1-6 Diversity of Housing. We collaborate with residents, housing providers and the development community to provide housing opportunities for every stage of life; we plan for a variety of housing types and price points to support our workforce, attract business and foster a balanced community.

Community Design Element:

- Goal CD1: A dynamic, progressive city containing distinct neighborhoods and commercial districts that foster a positive sense of identity and belonging among residents, visitors, and businesses.
 - CD1-1 City Identity. We take actions that are consistent with the City being a leading urban center in Southern California while recognizing the diverse character of our existing viable neighborhoods.
 - CD1-2 Growth Areas. We require development in growth areas to be distinctive and unique places within which there are cohesive design themes.
 - CD1-3 Neighborhood Improvement. We require viable existing residential and non-residential neighborhoods to be preserved, protected, and enhanced in accordance with our land use policies.
- Goal CD2: A high level of design quality resulting in public spaces, streetscapes, and developments that are attractive, safe, functional and distinct.
 - CD2-7 Sustainability. We collaborate with the development community to design and build neighborhoods, streetscapes, sites, outdoor spaces, landscaping and buildings to reduce energy demand through solar orientation, maximum use of natural daylight, passive solar and natural ventilation, building form, mechanical and structural systems, building materials and construction techniques.
 - CD2-13 Entitlement Process. We work collaboratively with all stakeholders to ensure a high degree of certainty in the efficient review and timely processing of all development plans and permits.

HOUSING ELEMENT COMPLIANCE: WHEREAS, the project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report

Appendix, and the proposed project is consistent with the number of dwelling units (852) and density (13.9 DU/AC) specified in the Available Land Inventory.

AIRPORT LAND USE COMPATIBILITY PLAN (ALUCP) COMPLIANCE: The project site is located within the Airport Influence Area of the Ontario International Airport (ONT), and has been found to be consistent with the policies and criteria set forth within the ALUCP for ONT.

ENVIRONMENTAL REVIEW: The environmental impacts of this project were previously reviewed in conjunction with the Rich-Haven Specific Plan Amendment (PSPA16-001), for which an addendum to the Rich-Haven Specific Plan EIR (SCH# 2006051081) was adopted by the City Council on March 15, 2016. The application introduces no new significant environmental impacts. All previously adopted mitigation measures are be a condition of project approval and are incorporated herein by reference.

CONDITIONS OF APPROVAL: See attached department reports.

TECHNICAL APPENDIX:

Surrounding Zoning and Land Use:

	<i>Existing Land Use</i>	<i>General Plan Designation</i>	<i>Zoning Designation</i>	<i>Specific Plan Land Use</i>
<i>Site</i>	Vacant	Mixed Use	Planning Area 8A – Rich-Haven Specific Plan	Regional Commercial/Mixed Use
<i>North</i>	Vacant	Mixed Use	Planning Area 7 – Rich-Haven Specific Plan	Regional Commercial/Mixed Use
<i>South</i>	Agricultural/Dairy Uses	Medium Density Residential	Planning Area 1 – Esperanza Specific Plan	Multi-Family Rowtown Residential
<i>East</i>	Agricultural Uses	Mixed Use	Planning Area 8A – Rich-Haven Specific Plan	Regional Commercial/Mixed Use
<i>West</i>	Vacant	Mixed Use	SP (AG Overlay)	N/A

General Site & Building Statistics

<i>Item</i>	<i>Proposed</i>	<i>Min./Max. Standard</i>	<i>Meets Y/N</i>
<i>Project Area:</i>	40.10 Acres	N/A	Y
<i>Lot/Parcel Size:</i>	Lot 1: 9.57 Acres Lot 2: 9.53 Acres Lot 3: 9.57 Acres Lot:4: 9.05 Acres	N/A	Y

EXHIBIT "A"
Tentative Parcel Map 19725 (Lots 1 and 2)

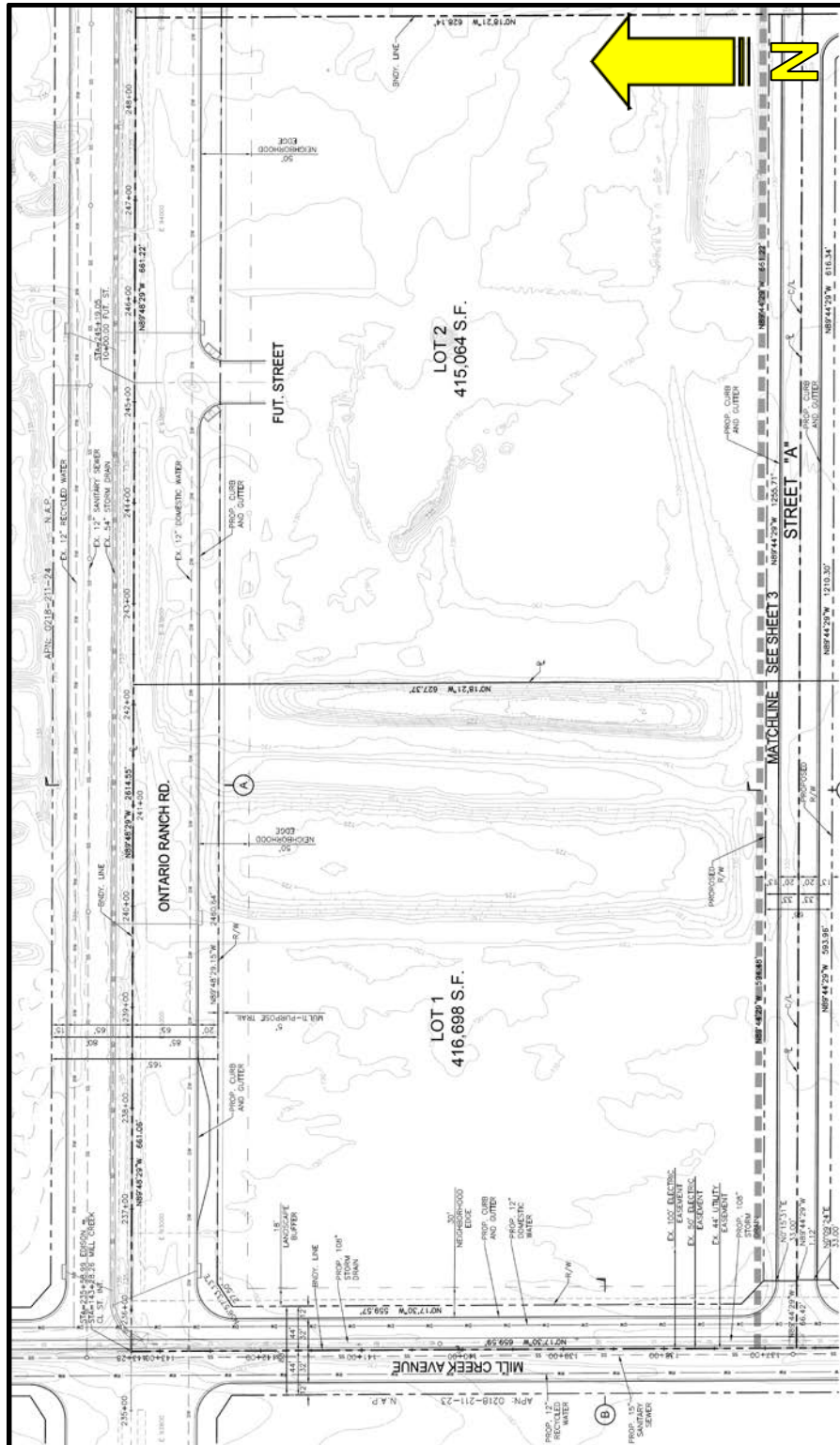
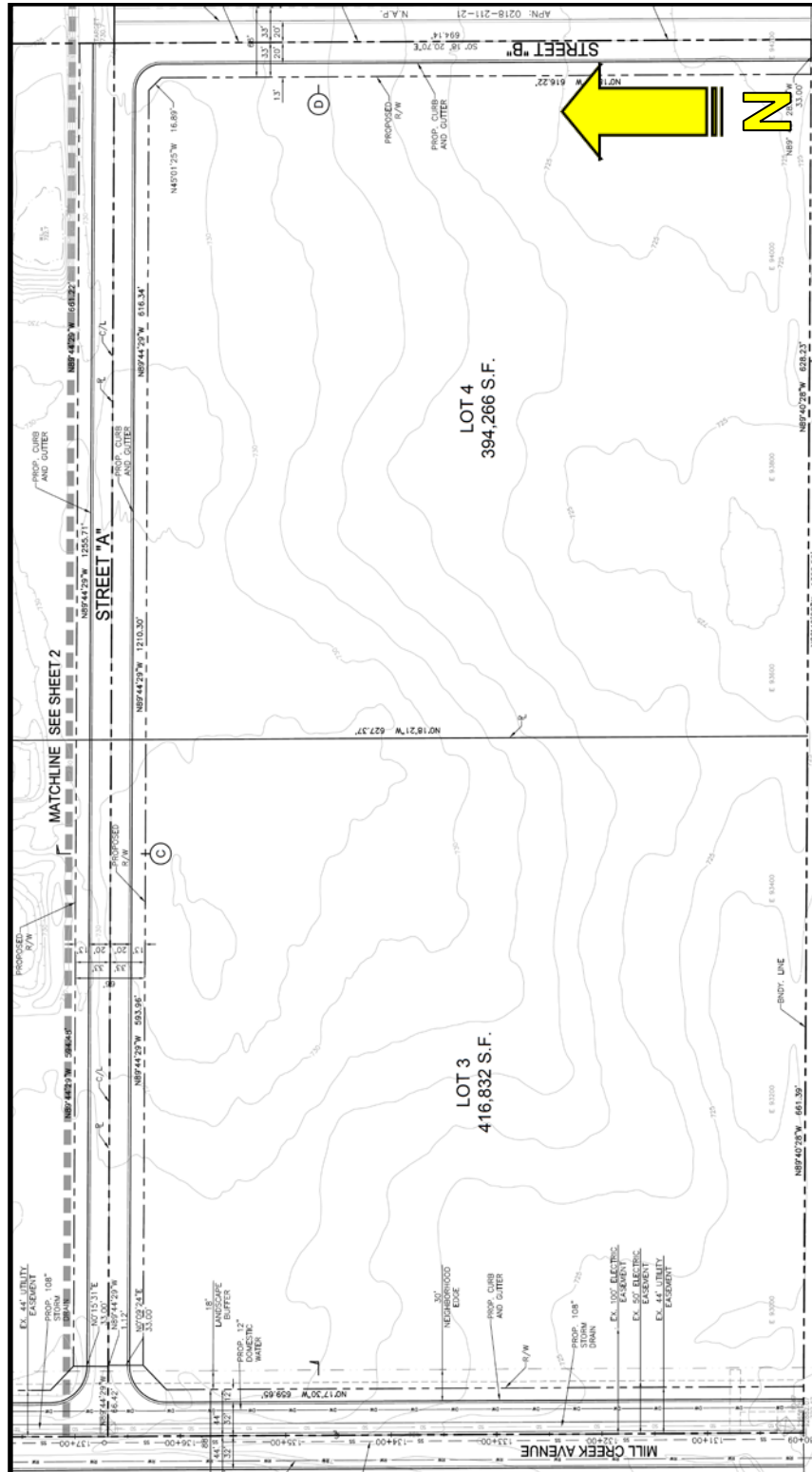


EXHIBIT "A"
Tentative Parcel Map 19725 (Lots 3 and 4)



RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PMTT16-010, A TENTATIVE PARCEL MAP (FILE NO. PMTT16-010; PM 19725) TO SUBDIVIDE 40.10 ACRES OF LAND INTO 4 NUMBERED LOTS AND 1 LETTERED LOT WITHIN THE REGIONAL COMMERCIAL/MIXED USE DISTRICT (PLANNING AREA 8A) OF THE RICH-HAVEN SPECIFIC PLAN, LOCATED AT THE SOUTHEAST CORNER OF ONTARIO RANCH ROAD AND MILL CREEK AVENUE, AND MAKING FINDINGS IN SUPPORT THEREOF—APNS: 0218-211-12 AND 0218-211-25.

WHEREAS, GDIC-RCCD2-L.P. ("Applicant") has filed an Application for the approval of a Tentative Parcel Map, File No. PMTT16-010, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to 40.10 acres of land located at the southeast corner of Ontario Ranch Road and Mill Creek Avenue, within the Regional Commercial/Mixed Use district (Planning Area 8A) of the Rich-Haven Specific Plan, and is presently vacant; and

WHEREAS, the properties to the north, east and west of the project site are within the Regional Commercial/Mixed Use district of Planning Areas 7, 8A and 8B of the Rich-Haven Specific Plan and the Agricultural Overlay (AG) zoning districts and are vacant. The property to the south is within the Multi-Family Rowtown Residential district of Planning Area 1 of the Esperanza Specific Plan and is currently developed with agricultural/dairy uses; and

WHEREAS, the Tentative Parcel Map proposed is in compliance with the requirements of the Rich-Haven Specific Plan and is sufficient in size to facilitate and implement the traditional planning concepts for the "Regional Commercial/Mixed Use" within the Specific Plan; and

WHEREAS, the proposed Tentative Parcel Map is located within Planning Area 8A (Regional Commercial/Mixed Use) land use district of the Rich-Haven Specific Plan, which establishes a development capacity of up to 325,000 square feet of Commercial/Office uses and 852 dwelling units; and

WHEREAS, the proposed Tentative Parcel Map will subdivide 40.10 acres of land into 4 numbered lots and 1 lettered lot. The numbered lots range in size from 9.05 acres to 9.57 acres, with an average lot size of 9.43 acres. The Rich-Haven Specific Plan does not require a minimum lot size, however the Specific Plan states that the lot size shall be large enough to meet all Development Standards and to accommodate the minimum commercial threshold of 95,000 square feet for Planning Area 8A. The proposed lot sizes are sufficient to accommodate free standing residential and commercial development as well as mixed use developments; and

WHEREAS, a Development Agreement (File No. PDA16-003) has been filed in conjunction with the proposed Tentative Parcel Map and establishes the terms and conditions required for the development of the project; and

WHEREAS, the project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and the proposed project is consistent with the number of dwelling units (852) and density (13.9 DU/AC) specified in the Available Land Inventory; and

WHEREAS, the proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plan (ALUCP) for ONT; and

WHEREAS, the Application is a project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA"); and

WHEREAS, the environmental impacts of this project were previously reviewed in conjunction with the Rich-Haven Specific Plan Amendment (PSPA16-001), for which an addendum to the Rich-Haven Specific Plan EIR (SCH# 2006051081) was adopted by the City Council on March 15, 2016. The application introduces no new significant environmental impacts. All previously adopted mitigation measures are to be a condition of project approval and are incorporated herein by reference; and

WHEREAS, the City's "Local Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed; and

WHEREAS, on February 22, 2017, the Development Advisory Board of the City of Ontario conducted a hearing and issued Decision No. DAB17-008 recommending the Planning Commission approve the Application; and

WHEREAS, on February 28, 2017, the Planning Commission of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED, AND RESOLVED by the Planning Commission of the City of Ontario, as follows:

SECTION 1. Environmental Determination and Findings. As the decision-making body for the Project, the Planning Commission has reviewed and considered the information contained in the previously adopted Rich-Haven Specific Plan EIR (SCH# 2006051081) and supporting documentation. Based upon the facts and information contained in the Rich-Haven Specific Plan EIR (SCH# 2006051081) and supporting documentation, the Planning Commission finds as follows:

a. The previous Rich-Haven Specific Plan EIR (SCH# 2006051081) contains a complete and accurate reporting of the environmental impacts associated with the Project; and

b. The previous Rich-Haven Specific Plan EIR (SCH# 2006051081) was completed in compliance with CEQA and the Guidelines promulgated thereunder; and

c. The previous Rich-Haven Specific Plan EIR (SCH# 2006051081) reflects the independent judgment of the Planning Commission; and

d. All previously adopted mitigation measures, which are applicable to the Project, shall be a condition of Project approval and are incorporated herein by reference.

SECTION 2. Housing Element Consistency. Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as the decision-making body for the Project, the Planning Commission finds that based upon the facts and information contained in the Application and supporting documentation, at the time of Project implementation, the project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and the proposed project is consistent with the number of dwelling units (852) and density (13.9 DU/AC) specified in the Available Land Inventory.

SECTION 3. Airport Land Use Compatibility Plan (ALUCP) Consistency. As the decision-making body for the Project, the Planning Commission has reviewed and

considered the facts and information contained in the Application and supporting documentation, and finds that, at the time of Project implementation, the Project will be consistent with the policies and criteria set forth within the ONT ALUCP.

SECTION 4. Concluding Facts and Reasons. Based upon the substantial evidence presented to the Planning Commission during the above-referenced hearing and upon the specific findings set forth in Section 1 above, the Planning Commission hereby concludes as follows:

a. The proposed map is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan, and applicable area and specific plans, and planned unit developments. The subdivision is consistent with The Ontario Plan Policy Plan (General Plan) and the Rich-Haven Specific Plan in that the proposed subdivision and lot sizes comply with the objectives and development standards of the Specific Plan.

b. The design or improvement of the proposed subdivision is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan, and applicable specific plans and planned unit developments. The design or improvement of the subdivision is consistent with all applicable general and specific plans. The Tentative Parcel Map meets all minimum size requirements specified within the Regional Commercial/Mixed Use (Planning Area 8A) land use districts and Development Standards of the Rich-Haven Specific Plan.

c. The site is physically suitable for the type of development proposed. The Tentative Parcel Map proposes to subdivide 40.10 acres of land into 4 numbered lots for the future Regional Commercial/Mixed Use development opportunities within Planning Area 8A of the Rich-Haven Specific Plan. The proposed lots range in size from 9.05 acres to 9.57 acres and is consistent with the Rich-Haven Specific Plan.

d. The site is physically suitable for the proposed density of development. The lots that will be created with the Tentative Parcel Map subdivision meet the development standards of the Rich-Haven Specific Plan – Regional Commercial/Mixed Use (Planning area 8A). The Specific Plan provides for the development of up to 325,000 square feet of Commercial/Office uses and 852 dwelling units.

e. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. The environmental impacts of this project were previously reviewed in conjunction with an addendum to the Rich-Haven Specific Plan EIR (SCH# 2006051081). This application is consistent with the previously adopted EIR and introduces no new significant environmental impacts.

f. The design of the subdivision or type of improvements are not likely to cause serious public health problems. The design of the subdivision or the proposed improvement is not likely to cause serious public health problems. The environmental impacts of this project were previously reviewed in conjunction with the addendum to the Rich-Haven Specific Plan EIR (SCH# 2006051081). This application is consistent with the previously adopted EIR and introduces no new significant environmental impacts.

g. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. The design of the subdivision will not conflict with any easement acquired by the public at large, then of record, for access through or use of the property within the proposed subdivision.

SECTION 5. Planning Commission Action. Based upon the findings and conclusions set forth in Sections 1 and 2 above, the Planning Commission hereby APPROVES the herein described Application subject to each and every condition set forth in the Department reports, attached hereto and incorporated herein by this reference.

SECTION 6. Indemnification. The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

SECTION 7. Custodian of Records. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 8. Certification to Adoption.The Secretary shall certify to the adoption of the Resolution.

The Secretary Pro Tempore for the Planning Commission of the City of Ontario shall certify as to the adoption of this Resolution.

I hereby certify that the foregoing Resolution was duly and regularly introduced, passed and adopted by the Planning Commission of the City of Ontario at a regular meeting thereof held on the 28th day of February 2017, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.

Jim Willoughby
Planning Commission Chairman

ATTEST:

Scott Murphy
Planning Director/Secretary of Planning
Commission

Planning Commission Resolution
File No. PMTT16-010
February 28, 2017
Page 7

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, Marci Callejo, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC17-[insert #] was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on February 28, 2017, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marci Callejo
Secretary Pro Tempore



City of Ontario
Planning Department
303 East B Street
Ontario, California 91764
Phone: 909.395.2036
Fax: 909.395.2420

Planning Department Land Development Division Conditions of Approval

Meeting Date: February 22, 2017

File No: PMTT16-010

Related Files: PDA16-003

Project Description: A Tentative Parcel Map (File No. PMTT16-010; PM 19725) to subdivide 40.10 acres of land into 4 numbered lots and 1 lettered lot within the Regional Commercial/Mixed Use district (Planning Area 8A) of the Rich-Haven Specific Plan, located at the southeast corner of Ontario Ranch Road and Mill Creek Avenue. APNs: 0218-211-12 and 0218-211-25; **submitted by GDIC-RCCD2-L.P.**

Prepared By: Henry K. Noh, Senior Planner
Phone: 909.395.2429 (direct)
Email: hnoh@ontarioca.gov

The Planning Department, Land Development Section, conditions of approval applicable to the above-described Project, are listed below. The Project shall comply with each condition of approval listed below:

1.0 Standard Conditions of Approval. The project shall comply with the *Standard Conditions for New Development*, adopted by City Council Resolution No. 2010-021 on March 16, 2010. A copy of the *Standard Conditions for New Development* may be obtained from the Planning Department or City Clerk/Records Management Department.

2.0 Special Conditions of Approval. In addition to the *Standard Conditions for New Development* identified in condition no. 1.0, above, the project shall comply with the following special conditions of approval:

2.1 Time Limits.

(a) Tentative Parcel approval shall become null and void 2 years following the effective date of application approval, unless the final parcel/tract map has been recorded, or a time extension has been approved by the Planning Commission pursuant to Development Code Section 2.02.025 (Time Limits and Extensions). This Permit does not supersede any individual time limits specified herein for performance of specific conditions or improvements.

2.2 Subdivision Map.

(a) The Final Parcel Map shall be in conformance with the approved Tentative Parcel Map on file with the City. Variations from the approved Tentative Parcel Map may be reviewed and approved by the Planning Department. A substantial variation from the approved Tentative Parcel Map may require review and approval by the Planning Commission, as determined by the Planning Director.

(b) Tentative Parcel Map approval shall be subject to all conditions, requirements and recommendations from all other departments/agencies provided on the attached reports/memorandums.

(c) The subject Tentative Parcel Map for condominium purposes shall require the recordation of a condominium plan concurrent with the recordation of the Final Parcel Map and CC&Rs.

(d) Pursuant to California Government Section 66474.9, the subdivider agrees that it will defend, indemnify, and hold harmless the City of Ontario or its agents, officers and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void or annul any approval of the City of Ontario, whether by its City Council, Planning Commission or other authorized board or officer of this subdivision, which action is brought within the time period provided for in Government Code Section 66499.37. The City of Ontario shall promptly notify the subdivider of any such claim, action or proceeding and the City of Ontario shall cooperate fully in the defense.

2.3 General Requirements. The Project shall comply with the following general requirements:

(a) The project site shall be developed in conformance with the approved plans on file with the City. Any variation from the approved plans must be reviewed and approved by the Planning Department prior to building permit issuance.

(b) The herein-listed conditions of approval from all City departments shall be included in the construction plan set for project, which shall be maintained on site during project construction.

2.4 Landscaping.

(a) The Project shall provide and continuously maintain landscaping and irrigation systems in compliance with the provisions of Ontario Development Code Division 6.05 (Landscaping).

(b) Comply with the conditions of approval of the Planning Department; Landscape Planning Division.

(c) Landscaping shall not be installed until the Landscape and Irrigation Construction Documentation Plans required by Ontario Development Code Division 6.05 (Landscaping) have been approved by the Landscape Planning Division.

(d) Changes to approved Landscape and Irrigation Construction Documentation Plans, which affect the character or quantity of the plant material or irrigation system design, shall be resubmitted for approval of the revision by the Landscape Planning Division, prior to the commencement of the changes.

2.5 Walls and Fences. All Project walls and fences shall comply with the requirements of Ontario Development Code Division 6.02 (Walls, Fences and Obstructions).

2.6 Covenants, Conditions and Restrictions (CC&Rs)/Mutual Access and Maintenance Agreements.

(a) CC&Rs shall be prepared for the Project and shall be recorded prior to the issuance of a building permit.

(b) The CC&Rs shall be in a form and contain provisions satisfactory to the City. The articles of incorporation for the property owners association and the CC&Rs shall be reviewed and approved by the City.

(c) CC&Rs shall ensure reciprocal parking and access between parcels.

(d) CC&Rs shall ensure reciprocal parking and access between parcels, and common maintenance of:

(i) Landscaping and irrigation systems within common areas;

(ii) Landscaping and irrigation systems within parkways adjacent to the project site, including that portion of any public highway right-of-way between the property line or right-of-way boundary line and the curb line and also the area enclosed within the curb lines of a median divider (Ontario Municipal Code Section 7-3.03), pursuant to Ontario Municipal Code Section 5-22-02;

(iii) Shared parking facilities and access drives; and

(iv) Utility and drainage easements.

(e) CC&Rs shall include authorization for the City's local law enforcement officers to enforce City and State traffic and penal codes within the project area.

(f) The CC&Rs shall grant the City of Ontario the right of enforcement of the CC&R provisions.

(g) A specific methodology/procedure shall be established within the CC&Rs for enforcement of its provisions by the City of Ontario, if adequate maintenance of the development does not occur, such as, but not limited to, provisions that would grant the City the right of access to correct maintenance issues and assess the property owners association for all costs incurred.

2.7 Disclosure Statements.

(a) A copy of the Public Report from the Department of Real Estate, prepared for the subdivision pursuant to Business and Professions Code Section 11000 et seq., shall be provided to each prospective buyer of the residential units and shall include a statement to the effect that:

(i) This tract is subject to noise from the Ontario International Airport and may be more severely impacted in the future.

(ii) Some of the property adjacent to this tract is zoned for agricultural uses and there could be fly, odor, or related problems due to the proximity of animals.

(iii) The area south of Riverside Drive lies within the San Bernardino County Agricultural Preserve. Dairies currently existing in that area are likely to remain for the foreseeable future.

(iv) This tract is part of a Landscape Maintenance District. The homeowner(s) will be assessed through their property taxes for the continuing maintenance of the district.

2.8 Environmental Review.

(a) The environmental impacts of this project were previously reviewed in conjunction with File No. PSPA16-001, an amendment to the Rich-Haven Specific Plan for which an addendum to the Rich-Haven Specific Plan EIR (SCH# 2006051081) was previously adopted by the City Council on March 15, 2016. This application introduces no new significant environmental impacts. The City's "Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed. The previously adopted mitigation measures shall be a condition of project approval, and are incorporated herein by this reference.

(b) If human remains are found during project grading/excavation/construction activities, the area shall not be disturbed until any required investigation is completed by the County Coroner and Native American consultation has been completed (if deemed applicable).

(c) If any archeological or paleontological resources are found during project grading/excavation/construction, the area shall not be disturbed until the significance of the resource is determined. If determined to be significant, the resource shall be recovered by a qualified archeologist or paleontologist consistent with current standards and guidelines, or other appropriate measures implemented.

2.9 Indemnification. The applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void or annul any approval of the City of Ontario, whether by its City Council, Planning Commission or other authorized board or officer. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

2.10 Additional Fees.

(a) Within 5 days following final application approval, the Notice of Determination (NOD) filing fee shall be provided to the Planning Department. The fee shall be paid by check, made payable to the "Clerk of the Board of Supervisors", which shall be forwarded to the San Bernardino County Clerk of the Board of Supervisors, along with all applicable environmental forms/notices, pursuant to the requirements of the California Environmental Quality Act (CEQA). Failure to provide said fee within the time specified may result in a 180-day extension to the statute of limitations for the filing of a CEQA lawsuit.

(b) After the Project's entitlement approval, and prior to issuance of final building permits, the Planning Department's Plan Check and Inspection fees shall be paid at the rate established by resolution of the City Council.

2.11 Additional Requirements.

(a) The Tentative Parcel Map 19725 is contingent upon Planning Commission and City Council approval of the related Development Agreement (File No. PDA 16-003).

(b) All applicable conditions of approval of Development Agreement (File No. PDA16-003) shall apply to this parcel map.

(c) All applicable conditions of approval of the Rich-Haven Specific Plan shall apply to this parcel map.

CITY OF ONTARIO

MEMORANDUM

TO: PLANNING DEPARTMENT, Henry Noh
FROM: BUILDING DEPARTMENT, Kevin Shear
DATE: April 18, 2016
SUBJECT: PMTT16-010

-
- The plan **does** adequately address the departmental concerns at this time.
- No comments
- Report below.

Conditions of Approval

1. Standard Conditions of Approval apply.

KS:lm

AIRPORT LAND USE COMPATIBILITY PLANNING

CONSISTENCY DETERMINATION REPORT



Project File No.: PMTT16-010
 Address: SEC Mill Creek and Ontario Ranch Rd
 APN: 0218-211-12 & 25
 Existing Land Use: Vacant
 Proposed Land Use: Subdivide property into 4 lots for Commercial land uses
 Site Acreage: 40.10 Proposed Structure Height: n/a
 ONT-IAC Project Review: n/a
 Airport Influence Area: ONT

Reviewed By: Lorena Mejia
 Contact Info: 909-395-2276
 Project Planner: Henry Noh
 Date: 5/11/16
 CD No.: 2016-023
 PALU No.: n/a

The project is impacted by the following ONT ALUCP Compatibility Zones:

Safety	Noise Impact	Airspace Protection	Overflight Notification
<input type="radio"/> Zone 1	<input type="radio"/> 75+ dB CNEL	<input type="radio"/> High Terrain Zone	<input type="radio"/> Avigation Easement Dedication
<input type="radio"/> Zone 1A	<input type="radio"/> 70 - 75 dB CNEL	<input checked="" type="checkbox"/> FAA Notification Surfaces	<input type="radio"/> Recorded Overflight Notification
<input type="radio"/> Zone 2	<input type="radio"/> 65 - 70 dB CNEL	<input type="radio"/> Airspace Obstruction Surfaces	<input checked="" type="checkbox"/> Real Estate Transaction Disclosure
<input type="radio"/> Zone 3	<input type="radio"/> 60 - 65 dB CNEL	<input type="radio"/> Airspace Avigation Easement Area	
<input type="radio"/> Zone 4		Allowable Height: 200 FT +	
<input type="radio"/> Zone 5			

The project is impacted by the following Chino ALUCP Safety Zones:

Zone 1
 Zone 2
 Zone 3
 Zone 4
 Zone 5
 Zone 6
 Allowable Height: _____

CONSISTENCY DETERMINATION

This proposed Project is: Exempt from the ALUCP
 ● Consistent
 Consistent with Conditions
 Inconsistent

The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plan (ALUCP) for ONT.

Airport Planner Signature: _____

CITY OF ONTARIO
LANDSCAPE PLANNING DIVISION
 303 East "B" Street, Ontario, CA 91764

CONDITIONS OF APPROVAL	
Sign Off	
 Carolyn Bell, Sr. Landscape Planner	5/17/16 Date

Reviewer's Name: Carolyn Bell, Sr. Landscape Planner	Phone: (909) 395-2237
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D.A.B. File No.: PMTT16-010	Case Planner: Henry Noh
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Project Name and Location:
 Parcel Map for Rich Haven SP
 40.10 Acres SEC Mill Creek and Ontario Ranch Road
 Applicant/Representative:
 Distinguished Homes/ Fusco Engineering
 2850 Inland Empire Blvd Bldg B
 Ontario, CA

<input checked="" type="checkbox"/>	A Preliminary Landscape Plan (dated 4/7/16) meets the Standard Conditions for New Development and has been approved with the consideration that the following conditions below be met upon submittal of the landscape construction documents.
<input type="checkbox"/>	A Preliminary Landscape Plan (dated) has not been approved. Corrections noted below are required prior to Preliminary Landscape Plan approval.

CORRECTIONS REQUIRED

1. Include Neighborhood edge on the east side of Mill Creek – 30' wide including the 12' right of way, per the Ontario Ranch Streetscape Master Plan.
2. Include Neighborhood edge on the south side of Ontario Ranch Road – 45-50' wide including the 15' ROW: 10' parkway, 5 sidewalk; then a 5' planter, 8' multipurpose trail and remainder is neighborhood edge per the Ontario Ranch Streetscape Master Plan.



CITY OF ONTARIO

MEMORANDUM

TO: Otto Kroutil, Development Director
Scott Murphy, Planning Director
Cathy Wahlstrom, Principal Planner (Copy of memo only)
Charity Hernandez, Economic Development
Kevin Shear, Building Official
Raymond Lee, Assistant City Engineer
Carolyn Bell, Landscape Planning Division
Sheldon Yu, Municipal Utility Company
Doug Sorel, Police Department
Art Andres, Deputy Fire Chief/Fire Marshal
Tom Danna, T. E., Traffic/Transportation Manager
Lorena Mejia, Associate Planner, Airport Planning (Copy of memo only)
Steve Wilson, Engineering/NPDES
Bob Gluck, Code Enforcement Director

FROM: Henry Noh,

DATE: April 15, 2016

SUBJECT: FILE #: PMTT16-010

Finance Acct#:

The following project has been submitted for review. Please send one (1) copy and email one (1) copy of your DAB report to the Planning Department by **Friday, April 29, 2016**.

- Note:**
- Only DAB action is required
 - Both DAB and Planning Commission actions are required
 - Only Planning Commission action is required
 - DAB, Planning Commission and City Council actions are required
 - Only Zoning Administrator action is required

PROJECT DESCRIPTION: A Tentative Parcel Map (TPM 19725) to subdivide four lots into one 40.10 acre lot within the Regional Commercial Land Use Designation of the Rich-Haven Specific Plan, located on the southeast corner of Mill Creek Avenue and Ontario Ranch Road (APN: 0218-211-12 and 25).

- The plan does adequately address the departmental concerns at this time.
 - No comments
 - Report attached (1 copy and email 1 copy)
 - Standard Conditions of Approval apply
- The plan does not adequately address the departmental concerns.
 - The conditions contained in the attached report must be met prior to scheduling for Development Advisory Board.

POLICE
Department

DOUGLAS SOREL
Signature

MGMT ANALYST
Title

4/28/16
Date



**ENGINEERING DEPARTMENT
CONDITIONS OF APPROVAL**

(Environmental, Traffic/Transportation Division, Ontario Municipal Utilities Company
Information Technology and Management Services Department conditions incorporated herein)

<input type="checkbox"/> DEVELOPMENT PLAN <input type="checkbox"/> OTHER	<input checked="" type="checkbox"/> PARCEL MAP <input type="checkbox"/> TRACT MAP <input type="checkbox"/> FOR CONDOMINIUM PURPOSES
PROJECT FILE NO. PM-19725 RELATED FILE NO(S). PMTT16-010	
<input checked="" type="checkbox"/> ORIGINAL <input type="checkbox"/> REVISED: __/__/__	

CITY PROJECT ENGINEER & PHONE NO: Bryan Lirley, P.E., 909-395-2137 *BL*

CITY PROJECT PLANNER & PHONE NO: Henry Noh, 909-395-2429

DAB MEETING DATE: February 22, 2017

PROJECT NAME / DESCRIPTION: PM-19725, a Tentative Parcel Map to subdivide 40.10 acres of land into four (4) parcels within the Rich-Haven Specific Plan

LOCATION: Southeast corner of Ontario Ranch Road and Mill Creek Avenue

APPLICANT: GDCI-RCCD 2 – L.P.

REVIEWED BY: *N. Khoury* *2-8-17*
 Naiim Khoury, Associate Engineer Date

APPROVED BY: *[Signature]* *2-8-17*
 Khoi Do, P.E. Assistant City Engineer Date



THIS PROJECT SHALL COMPLY WITH THE REQUIREMENTS SET FORTH IN THE GENERAL STANDARD CONDITIONS OF APPROVAL ADOPTED BY THE CITY COUNCIL (RESOLUTION NO. 2010-021) AND THE PROJECT SPECIFIC CONDITIONS OF APPROVAL SPECIFIED IN HEREIN. ONLY APPLICABLE CONDITIONS OF APPROVAL ARE CHECKED. THE APPLICANT SHALL BE RESPONSIBLE FOR THE COMPLETION OF ALL APPLICABLE CONDITIONS OF APPROVAL PRIOR TO PARCEL MAP APPROVAL, ISSUANCE OF PERMITS AND/OR OCCUPANCY CLEARANCE, AS SPECIFIED IN THIS REPORT.

1. PRIOR TO PARCEL MAP APPROVAL, APPLICANT SHALL: Check When Complete

- 1.01 Dedicate to the City of Ontario in fee simple, the right-of-way, described below:
 - 1. Street "A" to the full ultimate right-of-way width of 66 feet.
 - 2. Street "B" to the ultimate half right-of-way width of 33 feet.
 - 3. Property line corner cut-back at Street "A"/Mill Creek Avenue and Street "A" & "B" intersections per City Standards and to the satisfaction of the City Engineer.
 - 4. Additional 30' on the south side of Ontario Ranch Road for neighborhood edge.
 - 5. Additional 18' on the east side of Mill Creek Avenue for neighborhood edge.
- 1.02 Dedicate to the City of Ontario, the following easement(s): _____
- 1.03 Restrict vehicular access to the site as follows: Only approved access points per the Rich-Haven Specific Plan
- 1.04 Vacate the following street(s) and/or easement(s): _____
- 1.05 Submit a copy of a recorded private reciprocal use agreement or easement. The agreement or easement shall ensure, at a minimum, common ingress and egress and joint maintenance of all common access areas and drive aisles.
- 1.06 Provide (original document) Covenants, Conditions and Restrictions (CC&Rs) as applicable to the project and as approved by the City Attorney and the Engineering and Planning Departments, ready for recordation with the County of San Bernardino. The CC&Rs shall provide for, but not be limited to, common ingress and egress, joint maintenance responsibility for all common access improvements, common facilities, parking areas, utilities, median and landscaping improvements and drive approaches, in addition to maintenance requirements established in the Water Quality Management Plan (WQMP), as applicable to the project. The CC&Rs shall also address the maintenance and repair responsibility for public improvements/utilities (sewer, water, storm drain, recycled water, etc.) located within open space/easements. In the event of any maintenance or repair of these facilities, the City shall only restore disturbed areas to current City Standards.
- 1.07 File an application for Reapportionment of Assessment, together with payment of a reapportionment processing fee, for each existing assessment district listed below. Contact the Management Services Department at (909) 395-2124 regarding this requirement.
 - (1) _____
 - (2) _____
- 1.08 Prepare a fully executed Subdivision Agreement (on City approved format and forms) with accompanying security as required, or complete all public improvements.



- 1.09 Provide a monument bond (i.e. cash deposit) in an amount calculated by the City's approved cost estimate spreadsheet (available for download on the City's website: www.ci.ontario.ca.us) or as specified in writing by the applicant's Registered Engineer or Licensed Land Surveyor of Record and approved by the City Engineer, whichever is greater.
- 1.10 Provide a preliminary title report and subdivision guarantee current to within 30 days.
- 1.11 File an application, together with an initial deposit (if required), to establish a Community Facilities District (CFD) pursuant to the Mello-Roos Community Facilities District Act of 1982. The application and fee shall be submitted a minimum of three (3) months prior to final subdivision map approval, and the CFD shall be established prior to final subdivision map approval or issuance of building permits, whichever occurs first. The CFD shall be established upon the subject property to provide funding for various City services. An annual special tax shall be levied upon each parcel or lot in an amount to be determined. The special tax will be collected along with annual property taxes. The City shall be the sole lead agency in the formation of any CFD. Contact Management Services at (909) 395-2353 to initiate the CFD application process.
- 1.12 New Model Colony (NMC) Developments:
 - 1) Provide evidence of final cancellation of Williamson Act contracts associated with this tract, prior to approval of any final subdivision map. Cancellation of contracts shall have been approved by the City Council.
 - 2) Provide evidence of sufficient storm water capacity availability equivalents (Certificate of Storm Water Treatment Equivalents).
 - 3) Provide evidence of sufficient water availability equivalents (Certificate of Net MDD Availability).
- 1.13 Other conditions:
 1. The applicant/developer may need to coordinate with existing easement holders to relocate utilities and/or easements as necessary.
 2. The applicant/developer shall acquire Right-of-Way from the adjacent easterly property to construct the internal Street "B" for circulation from Esperanza Specific Plan to Mill Creek Avenue.
 3. Pursuant to the final approved site plan, applicant/developer may be required to dedicate reciprocal access easements to achieve compatibility with ultimate circulation system.

2. PRIOR TO ISSUANCE OF ANY PERMITS, APPLICANT SHALL:

**A. GENERAL
 (Permits includes Grading, Building, Demolition and Encroachment)**

- 2.01 Record Parcel Map No. 19725 pursuant to the Subdivision Map Act and in accordance with the City of Ontario Municipal Code.
- 2.02 Submit a duplicate photo mylar of the recorded map to the City Engineer's office.
- 2.03 Note that the subject parcel is a recognized parcel in the City of Ontario per _____ .
- 2.04 Note that the subject parcel is an 'unrecognized' parcel in the City of Ontario and shall require a Certificate of Compliance to be processed unless a deed is provided confirming the existence of the parcel prior to the date of _____ .



- 2.05 Apply for a: Certificate of Compliance with a Record of Survey; Lot Line Adjustment
 Make a Dedication of Easement.
- 2.06 Provide (original document) Covenants, Conditions and Restrictions (CC&R's), as applicable to the project, and as approved by the City Attorney and the Engineering and Planning Departments, ready for recordation with the County of San Bernardino. The CC&R's shall provide for, but not be limited to, common ingress and egress, joint maintenance of all common access improvements, common facilities, parking areas, utilities and drive approaches in addition to maintenance requirements established in the Water Quality Management Plan (WQMP), as applicable to the project.
- 2.07 Submit a soils/geology report.
- 2.08 Other Agency Permit/Approval: Submit a copy of the approved permit and/or other form of approval of the project from the following agency or agencies:
 - State of California Department of Transportation (Caltrans)
 - San Bernardino County Road Department (SBCRD)
 - San Bernardino County Flood Control District (SBCFCD)
 - Federal Emergency Management Agency (FEMA)
 - Cucamonga Valley Water District (CVWD) for sewer/water service
 - United States Army Corps of Engineers (USACE)
 - California Department of Fish & Game
 - Inland Empire Utilities Agency (IEUA)
 - Other: _____
- 2.09 Dedicate to the City of Ontario the right-of-way described below:
_____ feet on _____
Property line corner 'cut-back' required at the intersection of _____
and _____.
- 2.10 Dedicate to the City of Ontario the following easement(s): _____

- 2.11 New Model Colony (NMC) Developments:
 - 1) Submit a copy of the permit from the San Bernardino County Health Department to the Engineering Department and the Ontario Municipal Utilities Company (OMUC) for the destruction/abandonment of the on-site water well. The well shall be destroyed/abandoned in accordance with the San Bernardino County Health Department guidelines.
 - 2) Make a formal request to the City of Ontario Engineering Department for the proposed temporary use of an existing agricultural water well for purposes other than agriculture, such as grading, dust control, etc. Upon approval, the Applicant shall enter into an agreement with the City of Ontario and pay any applicable fees as set forth by said agreement.
 - 3) Design proposed retaining walls to retain up to a maximum of three (3) feet of earth. In no case shall a wall exceed an overall height of nine (9) feet (i.e. maximum 6-foot high wall on top of a maximum 3-foot high retaining wall.
- 2.12 Submit a security deposit to the Engineering Department to guarantee construction of the public improvements required herein valued at _____% of the approved construction cost estimate. Security deposit shall be in accordance with the City of Ontario Municipal Code. Security deposit will be eligible for release, in accordance with City procedure, upon completion and acceptance of said public improvements.



- 2.13 **The applicant/developer shall submit all necessary survey documents prepared by a Licensed Surveyor registered in the State of California detailing all existing survey monuments in and around the project site. These documents are to be reviewed and approved by the City Survey Office.**
- 2.14 Pay all Development Impact Fees (DIF) to the Building Department.
- 2.15 Other conditions: _____



B. PUBLIC IMPROVEMENTS
 (See attached Exhibit 'A' for plan check submittal requirements.)

- 2.16 Design and construct full public improvements in accordance with the City of Ontario Municipal Code, current City standards and specifications, master plans and the adopted specific plan for the area, if any. These public improvements shall include, but not be limited to, the following (checked boxes):

Improvement	Ontario Ranch Road	Mill Creek Avenue	Street "A"	Street "B"
Curb and Gutter	<input checked="" type="checkbox"/> New; 65 ft. South of C/L <input type="checkbox"/> Replace damaged <input type="checkbox"/> Remove and replace	<input checked="" type="checkbox"/> New; 32 ft. East of C/L <input type="checkbox"/> Replace damaged <input type="checkbox"/> Remove and replace	<input checked="" type="checkbox"/> New; 20 ft. from C/L <input type="checkbox"/> Replace damaged <input type="checkbox"/> Remove and replace	<input checked="" type="checkbox"/> New; 20 ft. West of C/L <input type="checkbox"/> Replace damaged <input type="checkbox"/> Remove and replace
AC Pavement	<input type="checkbox"/> Replacement <input checked="" type="checkbox"/> Widen 22 additional feet along frontage, including pavm't transitions	<input type="checkbox"/> Replacement <input checked="" type="checkbox"/> New 30 ft east of CL plus 18-ft + 5-ft shoulder west of C/L	<input type="checkbox"/> Replacement <input checked="" type="checkbox"/> New 18-ft from CL, both sides	<input type="checkbox"/> Replacement <input checked="" type="checkbox"/> New 18-ft west of CL
PCC Pavement (Truck Route Only)	<input type="checkbox"/> New <input checked="" type="checkbox"/> Widen 22 feet along frontage	<input type="checkbox"/> New <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing
Drive Approach	<input checked="" type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace
Sidewalk	<input checked="" type="checkbox"/> New (South side + 8' MPT) <input type="checkbox"/> Remove and replace	<input checked="" type="checkbox"/> New (East side) <input type="checkbox"/> Remove and replace	<input checked="" type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input checked="" type="checkbox"/> New (West side) <input type="checkbox"/> Remove and replace
ADA Access Ramp	<input checked="" type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input checked="" type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input checked="" type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input checked="" type="checkbox"/> New <input type="checkbox"/> Remove and replace
Parkway	<input checked="" type="checkbox"/> Trees <input checked="" type="checkbox"/> Landscaping (w/irrigation)	<input checked="" type="checkbox"/> Trees <input checked="" type="checkbox"/> Landscaping (w/irrigation)	<input checked="" type="checkbox"/> Trees <input checked="" type="checkbox"/> Landscaping (w/irrigation)	<input checked="" type="checkbox"/> Trees <input checked="" type="checkbox"/> Landscaping (w/irrigation)
Raised Landscaped Median	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace
Fire Hydrant	<input checked="" type="checkbox"/> New / Upgrade <input type="checkbox"/> Relocation	<input checked="" type="checkbox"/> New <input type="checkbox"/> Relocation	<input checked="" type="checkbox"/> New <input type="checkbox"/> Relocation	<input checked="" type="checkbox"/> New <input type="checkbox"/> Relocation



Sewer (see Sec. 2.C)	<input type="checkbox"/> Main <input type="checkbox"/> Lateral	<input checked="" type="checkbox"/> Main <input type="checkbox"/> Lateral	<input checked="" type="checkbox"/> Main <input type="checkbox"/> Lateral	<input type="checkbox"/> Main <input type="checkbox"/> Lateral
Water (see Sec. 2.D)	<input type="checkbox"/> Main <input type="checkbox"/> Service	<input checked="" type="checkbox"/> Main <input type="checkbox"/> Service	<input checked="" type="checkbox"/> Main <input type="checkbox"/> Service	<input checked="" type="checkbox"/> Main <input type="checkbox"/> Service
Recycled Water (see Sec. 2.E)	<input type="checkbox"/> Main <input type="checkbox"/> Service	<input checked="" type="checkbox"/> Main <input type="checkbox"/> Service	<input checked="" type="checkbox"/> Main <input type="checkbox"/> Service	<input checked="" type="checkbox"/> Main <input type="checkbox"/> Service
Traffic Signal System (see Sec. 2.F)	<input checked="" type="checkbox"/> New (Ontario Ranch/Mill Creek & Ontario Ranch/Map Entry) <input type="checkbox"/> Modify existing	<input checked="" type="checkbox"/> New <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing
Traffic Signing and Striping (see Sec. 2.F)	<input checked="" type="checkbox"/> New <input checked="" type="checkbox"/> Modify existing	<input checked="" type="checkbox"/> New <input type="checkbox"/> Modify existing	<input checked="" type="checkbox"/> New <input type="checkbox"/> Modify existing	<input checked="" type="checkbox"/> New <input type="checkbox"/> Modify existing
Street Light (see Sec. 2.F)	<input checked="" type="checkbox"/> New <input type="checkbox"/> Relocation	<input checked="" type="checkbox"/> New <input type="checkbox"/> Relocation	<input checked="" type="checkbox"/> New <input type="checkbox"/> Relocation	<input checked="" type="checkbox"/> New <input type="checkbox"/> Relocation
Bus Turn-out (see Sec. 2.F)	<input checked="" type="checkbox"/> New <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing
Storm Drain (see Sec. 2G)	<input type="checkbox"/> Main <input checked="" type="checkbox"/> Lateral	<input checked="" type="checkbox"/> Main <input checked="" type="checkbox"/> Lateral	<input checked="" type="checkbox"/> Main <input checked="" type="checkbox"/> Lateral	<input type="checkbox"/> Main <input type="checkbox"/> Lateral
Fiber Optics (see Sec. 2K)	<input checked="" type="checkbox"/> Conduit / Appurtenances	<input checked="" type="checkbox"/> Conduit / Appurtenances	<input type="checkbox"/> Conduit / Appurtenances	<input type="checkbox"/> Conduit / Appurtenances
Overhead Utilities	<input type="checkbox"/> Underground <input type="checkbox"/> Relocate	<input checked="" type="checkbox"/> Underground <input type="checkbox"/> Relocate	<input type="checkbox"/> Underground <input type="checkbox"/> Relocate	<input type="checkbox"/> Underground <input type="checkbox"/> Relocate
Removal of Improvements	_____	_____	_____	_____
Other Improvements	_____	_____	_____	_____

Specific notes for improvements listed in item no. 2.15, above:

- A. If at the time of this development connectivity to Esperanza Specific Plan is available via Street "B", the requirements for Street "A" & "B" per Section 2.16 will be applicable.



- 2.17 Construct a 0.15' asphalt concrete (AC) grind and overlay on the following street(s): _____
- 2.18 Reconstruct the full pavement structural section per City of Ontario Standard Drawing number 1011, based on existing pavement condition and approved street section design. Minimum limits of reconstruction shall be along property frontage, from street centerline to curb/gutter. 'Pothole' verification of existing pavement section required prior to acceptance/approval of street improvement plan.
- 2.19 Make arrangements with the Cucamonga Valley Water District (CVWD) to provide water service sewer service to the site. This property is within the area served by the CVWD and Applicant shall provide documentation to the City verifying that all required CVWD fees have been paid.
- 2.20 Other conditions: _____

C. SEWER

- 2.21 A _____ inch sewer main is available for connection by this project in _____ (Ref: Sewer plan bar code: _____)
- 2.22 **A sewer main is not available for direct connection. Design and construct master plan sewer lines along Merrill, Bellegrave, and Mill Creek from Ontario Ranch Road to connect to the existing Merrill Avenue Trunk Sewer, located approximately 3,200' east of Archibald Avenue; including all in-tract sewer lines to service the project**
- 2.23 Submit documentation that shows expected peak loading values for modeling the impact of the subject project to the existing sewer system. The project site is within a deficient public sewer system area. Applicant shall be responsible for all costs associated with the preparation of the model. Based on the results of the analysis, Applicant may be required to mitigate the project impact to the deficient public sewer system, including, but not limited to, upgrading of existing sewer main(s), construction of new sewer main(s) or diversion of sewer discharge to another sewer.
- 2.24 Other conditions: _____

D. WATER

- 2.25 **A 12 inch water main is available for connection by this project in Ontario Ranch Road. (Ref: Water plan bar code: W15611)**
- 2.26 Design and construct a water main extension. A water main is not available for direct connection. The closest main is approximately _____ feet away.
- 2.27 **Other conditions:**
 - 1. **Design and construct Mill Creek frontage master plan domestic water line, between Ontario Ranch Road and southerly P/L; including all in-tract water lines to service the project. Ensure the project is serviced by two separate points of connection.**

E. RECYCLED WATER

- 2.28 **A 12 inch recycled water main is available for connection by this project in Ontario Ranch Road. (Ref: Recycled Water plan bar code: P11417)**
- 2.29 **Construct an on-site recycled water system for this project.**
- 2.30 Design and construct an on-site recycled water ready system for this project. A recycled water main does not currently exist in the vicinity of this project, but is planned for the near future. Applicant shall be responsible for construction of a connection to the recycled water main for approved uses, when the main becomes available. The cost for connection to the main shall be borne solely by Applicant.



- 2.31 Submit two (2) hard copies and one (1) electronic copy, in PDF format, of the Engineering Report (ER), for the use of recycled water, to the OMUC for review and subsequent submittal to the California Department of Public Health (CDPH) for final approval.

Note: The OMUC and the CDPH review and approval process will be approximately three (3) months. Contact the Ontario Municipal Utilities Company at (909) 395-2687 regarding this requirement.

- 2.32 **Other conditions:**
1. **Design and construct Mill Creek frontage master plan recycled water line, between Ontario Ranch Road and southerly P/L; including all in-tract water lines to service the project.**

F. TRAFFIC / TRANSPORTATION

- 2.33 Submit a focused traffic impact study, prepared and signed by a Traffic/Civil Engineer registered in the State of California. The study shall address, but not be limited to, the following issues as required by the City Engineer:
1. On-site and off-site circulation
 2. Traffic level of service (LOS) at 'build-out' and future years
 3. Impact at specific intersections as selected by the City Engineer

- 2.34 **Other conditions:**
1. **The applicant/developer shall be responsible to design and construct a bus turnout in accordance with Omnitrans Bus Stop Design Guidelines on the south side of Ontario Ranch Road, east of Mill Creek Avenue.**
 2. **Ontario Ranch Road shall be posted "No Stopping Anytime." Mill Creek Road shall be posted "No Parking Anytime."**
 3. **Applicant/Developer shall design and construct appropriate dead-end conditions where a newly constructed street segment does not continue through.**
 4. **The Applicant/Developer's engineer-of-record shall meet with City Engineering staff prior to starting traffic signal, signing and striping and/or street lighting design to discuss items such as signal phasing, striping layout and tie-ins to existing or future street light circuits.**
 5. **If the Ontario Ranch Road map entry should be deemed a private street by the City Engineer, traffic signal and maintenance easements shall be dedicated.**
 6. **Pedestrian paseos will be required to provide direct pedestrian access from future developments to transit stops, e.g. bus pads and turnouts.**
 7. **At the time of development of the resultant lots and prior to any traffic generation on Mill Creek Avenue, the Applicant/Developer will be responsible to design and construct traffic a signal system at Ontario Ranch Road and Mill Creek Avenue.**
 8. **At the time of development of the resultant lots and prior to any traffic generation on the Ontario Ranch Road map entry, the Applicant/Developer shall be responsible to design and construct a non-DIF-participating traffic signal system at Ontario Ranch Road and Map Entry.**

G. DRAINAGE / HYDROLOGY

- 2.35 Submit a hydrology study and drainage analysis, prepared and signed by a Civil Engineer registered in the State of California. The study shall be prepared in accordance with the San Bernardino County Hydrology Manual and City of Ontario standards and guidelines. Additional drainage facilities, including, but not limited to, improvements beyond the project frontage, may be required to be designed and constructed, by Applicant, as a result of the findings of this study.



- 2.36 An adequate drainage facility to accept additional runoff from the site does not currently exist downstream of the project. Design and construct a storm water detention facility on the project site. 100 year post-development peak flow shall be attenuated such that it does not exceed 80% of pre-development peak flows, in accordance with the approved hydrology study and improvement plans.
- 2.37 Submit a copy of a recorded private drainage easement or drainage acceptance agreement to the Engineering Department for the acceptance of any increase to volume and/or concentration of historical drainage flows onto adjacent property, prior to approval of the grading plan for the project.
- 2.38 Comply with the City of Ontario Flood Damage Prevention Ordinance (Ordinance No. 2409). The project site or a portion of the project site is within the Special Flood Hazard Area (SFHA) as indicated on the Flood Insurance Rate Map (FIRM) and is subject to flooding during a 100 year frequency storm. The site plan shall be subject to the provisions of the National Flood Insurance Program.
- 2.39 Pay Storm Drain Development Impact Fee, approximately _____, Fee shall be paid to the Building Department. Final fee shall be determined based on the approved site plan.
- 2.40 **Other conditions:**
 - 1. **Storm Drain Development Impact Fee shall be calculated at site plan submittal.**
 - 2. **Design and construct storm drain improvements in Mill Creek Avenue from Ontario Ranch Road connecting to the County Line Channel in Bellegrave Avenue.**
 - 3. **Applicant/Developer shall design the south end of Street "B" to adequately accept and convey tributary storm water flows including acquisition of any necessary resultant easements.**

H. STORM WATER QUALITY / NATIONAL POLLUTANT DISCHARGE AND ELIMINATION SYSTEM (NPDES)

- 2.41 401 Water Quality Certification/404 Permit – Submit a copy of any applicable 401 Certification or 404 Permit for the subject project to the City project engineer. Development that will affect any body of surface water (i.e. lake, creek, open drainage channel, etc.) may require a 401 Water Quality Certification from the California Regional Water Quality Control Board, Santa Ana Region (RWQCB) and a 404 Permit from the United States Army Corps of Engineers (USACE). The groups of water bodies classified in these requirements are perennial (flow year round) and ephemeral (flow during rain conditions, only) and include, but are not limited to, direct connections into San Bernardino County Flood Control District (SBCFCD) channels.
If a 401 Certification and/or a 404 Permit are not required, a letter confirming this from Applicant's engineer shall be submitted.
Contact information: USACE (Los Angeles District) (213) 452-3414; RWQCB (951) 782-4130.
- 2.42 Submit a Water Quality Management Plan (WQMP). This plan shall be approved by the Engineering Department prior to approval of any grading plan. The WQMP shall be submitted, utilizing the current San Bernardino County Stormwater Program template, available at:
<http://www.sbcounty.gov/dpw/land/npdes.asp>.
- 2.43 **Other conditions:**
 - 1. **WQMP shall be required at site plan submittal.**

J. SPECIAL DISTRICTS

- 2.44 File an application, together with an initial payment deposit (if required), to establish a Community Facilities District (CFD) pursuant to the Mello-Roos Community facilities District Act of 1982. The application and fee shall be submitted a minimum three (3) months prior to final subdivision map approval, and the CFD shall be established prior to final subdivision map approval or issuance of building permits, whichever occurs first. The CFD shall be established upon the subject property to provide funding for various City services. An annual special tax shall be levied upon each parcel or lot in an amount to be determined. The special tax will be collected along with annual property taxes. The City shall be the sole lead agency in the formation of any CFD. Contact the Management Services Department at (909) 395-2353 to initiate the CFD application process.
- 2.45 Other conditions: _____



K. FIBER OPTIC

- 2.46 Design and construct fiber optic system to provide access to the City's conduit and fiber optic system per the City's Fiber Optic Master Plan. Building entrance conduits shall start from the closest OntarioNet hand hole constructed along the project frontage in the ROW and shall terminate in the main telecommunications room for each building. Conduit infrastructure shall interconnect with the primary and/or secondary backbone fiber optic conduit system at the nearest OntarioNet hand hole. Generally located along the project frontage of Ontario Ranch Road and Mill Creek Avenue, see Fiber Optic Exhibit herein.

- 2.47 Refer to the City's Fiber Optic Master Plan for design and layout guidelines. Contact the Information Technology Department at (909) 395-2000, regarding this requirement.

L. Solid Waste

- 2.48 Onsite solid waste shall be designed in accordance with the City's Solid Waste Manual location at:
<http://www.ontarioca.gov/municipal-utilities-company/solid-waste>

- 2.49 Other conditions: _____



3. PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY, APPLICANT SHALL:

- 3.01 **Set new monuments in place of any monuments that have been damaged or destroyed as a result of construction of the subject project. Monuments shall be set in accordance with City of Ontario standards and to the satisfaction of the City Engineer.**

- 3.02 Complete all requirements for recycled water usage.
 - 1) Procure from the OMUC a copy of the letter of confirmation from the California Department of Public Health (CDPH) that the Engineering Report (ER) has been reviewed and the subject site is approved for the use of recycled water.
 - 2) Obtain clearance from the OMUC confirming completion of recycled water improvements and passing of shutdown tests and cross connection inspection, upon availability/usage of recycled water.
 - 3) Complete education training of on-site personnel in the use of recycled water, in accordance with the ER, upon availability/usage of recycled water.

- 3.03 **The applicant/developer shall submit all final survey documents prepared by a Licensed Surveyor registered in the State of California detailing all survey monuments that have been preserved, revised, adjusted or set along with any maps, corner records or Records of Survey needed to comply with these Conditions of Approvals and the latest edition of the California Professional Land Survey Act. These documents are to be reviewed and approved by the City Survey Office.**

- 3.04 **NMC Projects: For developments located at an intersection of any two collector or arterial streets, the applicant/developer shall set a benchmark if one does not already exist at that intersection. Contact the City Survey office for information on reference benchmarks, acceptable methodology and required submittals.**

- 3.05 Confirm payment of all Development Impact Fees (DIF) to the Building Department.

- 3.06 **Submit electronic copies (PDF and Auto CAD format) of all approved improvement plans, studies and reports (i.e. hydrology, traffic, WQMP, etc.).**



EXHIBIT 'A'

ENGINEERING DEPARTMENT First Plan Check Submittal Checklist

Project Number: PMTT 16-010 , and/or Parcel Map No. 19725

The following items are required to be included with the first plan check submittal:

1. **A copy of this check list**
2. **Payment of fee for Plan Checking**
3. **One (1) copy of Engineering Cost Estimate (on City form) with engineer's wet signature and stamp.**
4. **One (1) copy of project Conditions of Approval**
5. Two (2) sets of Potable and Recycled Water demand calculations (include water demand calculations showing low, average and peak water demand in GPM for the proposed development and proposed water meter size).
6. Three (3) sets of Public Street improvement plan with street cross-sections
7. Three (3) sets of Private Street improvement plan with street cross-sections
8. Four (4) sets of Public Water improvement plan (include water demand calculations showing low, average and peak water demand in GPM for the proposed development and proposed water meter size)
9. Four (4) sets of Recycled Water improvement plan (include recycled water demand calculations showing low, average and peak water demand in GPM for the proposed development and proposed water meter size and an exhibit showing the limits of areas being irrigated by each recycled water meter)
10. Four (4) sets of Public Sewer improvement plan
11. Five (5) sets of Public Storm Drain improvement plan
12. Three (3) sets of Public Street Light improvement plan
13. Three (3) sets of Signing and Striping improvement plan
14. **Three (3) sets of Fiber Optic plan (include Auto CAD electronic submittal)**
15. **Three (3) sets of Dry Utility plans within public right-of-way (at a minimum the plans must show existing and ultimate right-of-way, curb and gutter, proposed utility location including centerline dimensions, wall to wall clearances between proposed utility and adjacent public line, street work repaired per Standard Drawing No. 1306. Include Auto CAD electronic submittal)**
16. Three (3) sets of Traffic Signal improvement plan and One (1) copy of Traffic Signal Specifications with modified Special Provisions. Please contact the Traffic Division at (909) 395-2154 to obtain Traffic Signal Specifications.
17. Two (2) copies of Water Quality Management Plan (WQMP), including one (1) copy of the approved Preliminary WQMP (PWQMP).
18. One (1) copy of Hydrology/Drainage study
19. One (1) copy of Soils/Geology report
20. **Payment for Final Map/Parcel Map processing fee**
21. **Three (3) copies of Final Map/Parcel Map**



- 22. **One (1) copy of approved Tentative Map**
- 23. **One (1) copy of Preliminary Title Report (current within 30 days)**
- 24. **One (1) copy of Traverse Closure Calculations**
- 25. **One (1) set of supporting documents and maps (legible copies): referenced improvement plans (full size), referenced record final maps/parcel maps (full size, 18"x26"), Assessor's Parcel map (full size, 11"x17"), recorded documents such as deeds, lot line adjustments, easements, etc.**
- 26. Two (2) copies of Engineering Report and an electronic file (include PDF format electronic submittal) for recycled water use
- 27. Other: _____



**PLANNING COMMISSION
STAFF REPORT**
February 28, 2017

SUBJECT: A Tentative Parcel Map (File No. PMTT16-011; PM 19741) to subdivide 19.64 acres of land into 4 numbered lots within the Regional Commercial/Mixed Use district (Planning Area 8A) of the Rich-Haven Specific Plan, located at the southwest corner of Ontario Ranch Road and Hamner Avenue. APN: 0218-211-25; **submitted by GDIC-RCCD2-L.P.**

PROPERTY OWNER: GDIC-RCCD2-L.P.

RECOMMENDED ACTION: That the Planning Commission approve File No. PMTT16-011, pursuant to the facts and reasons contained in the staff report and attached resolution, and subject to the conditions of approval contained in the attached departmental reports.

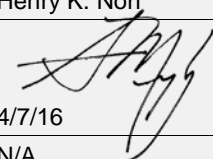
PROJECT SETTING: The project site is comprised of 19.64 acres of land located at the southwest corner of Ontario Ranch Road and Hamner Avenue, within the Regional Commercial/Mixed Use district of Planning Area 8A, and is depicted in **Figure 1: Project Location**, below. The project site gently slopes from north to south and is currently vacant. The properties to the north, south and west of the project site are within the Regional Commercial/Mixed Use district of Planning Areas 7, 8A and 8B of the Rich-Haven Specific Plan and are vacant or developed with agricultural uses. The property to the east is within the City of Eastvale and is proposed for commercial development.



Figure 1: Project Location

PROJECT ANALYSIS:

[1] Background — On December 4, 2007, the City Council approved the Rich-Haven Specific Plan (File No. PSP05-004) and certified the Environmental Impact Report (EIR) for the Specific Plan. The Specific Plan established the land use designations, development

Case Planner:	Henry K. Noh	Hearing Body	Date	Decision	Action
Planning Director Approval:		DAB	2/22/17	Approve	Recommend
Submittal Date:	4/7/16	ZA			
Hearing Deadline:	N/A	PC	2/28/17		Final
		CC			

standards, and design guidelines for approximately 512 acres of land, which included the potential development of 4,256 residential units and 889,200 square feet of commercial/office.

Subsequently on March 15, 2016, the City Council approved an amendment to the Rich-Haven Specific Plan (File No. PSPA16-001) that increased the residential units to 4,866 and increased the commercial/office area to 1,039,200 square feet. Additionally, the specific plan amendment reconfigured and encompassed property ownership for Planning Areas 1 thru 8B to provide a more effective way of mapping and developing each Planning Area (see **Figure 2: Rich-Haven Specific Plan Land Use Map**, below).

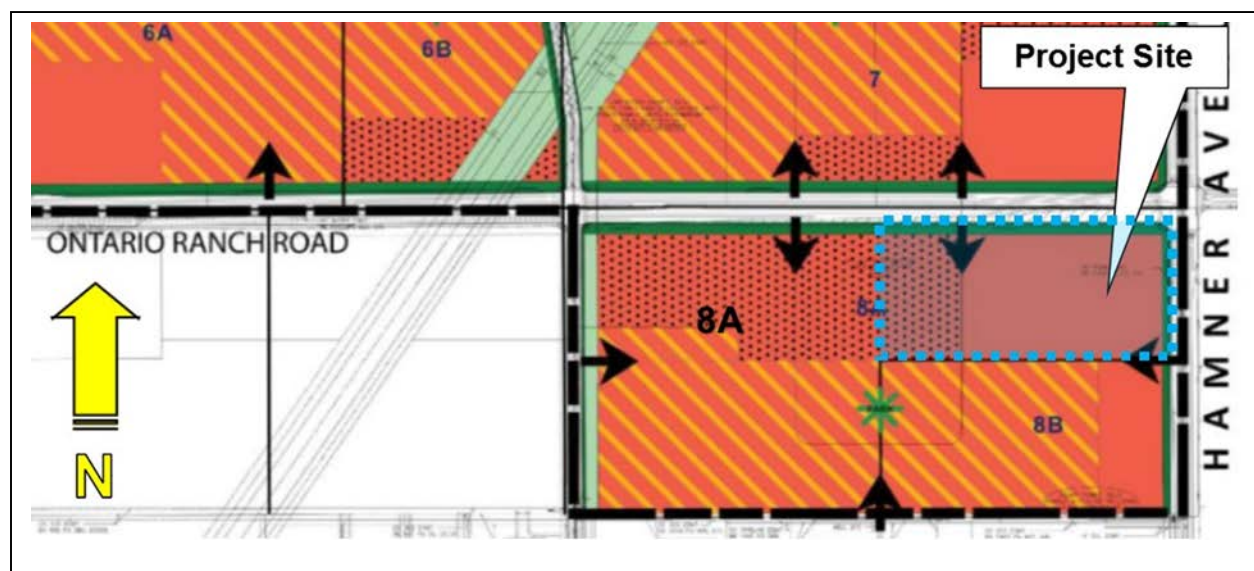


Figure 2: Rich-Haven Specific Plan Land Use Map

The Applicant, GDIC-RCCD2-L.P., has submitted a Tentative Parcel Map (File No. PMTT16-011) to subdivide 19.64 acres of land into 4 numbered lots within the Regional Commercial/Mixed Use district (Planning Area 8A) of the Rich-Haven Specific Plan. The development of the parcels will require a development plan that will be brought before the Planning Commission at a future date.

[2] Parcel Map Subdivision – The proposed Tentative Parcel Map will provide future Regional Commercial/Mixed Use development opportunities within the southeastern portion of the Rich-Haven Specific Plan as illustrated in (**Exhibit A: Tentative Parcel Map 19741**). The Tentative Parcel Map proposes four lots as follows:

1. Lot 1: 3.65 acres;
2. Lot 2: 7.09 acres;
3. Lot 3: 3.46 acres; and
4. Lot 4: 5.44 acres.

The Rich-Haven Specific Plan does not require a minimum lot size, however the Specific Plan states that the lot size shall be large enough to meet all Development Standards and to accommodate the minimum commercial threshold of 95,000 square feet for Planning Area 8A. The proposed lot sizes are sufficient to accommodate free standing residential and commercial development as well as mixed use developments.

[3] Site Access/Circulation — The proposed Tentative Parcel Map will facilitate the construction of the backbone streets and primary access points into the southeastern portion (Planning Area 8A) of the Rich-Haven Specific Plan community from Ontario Ranch Road and Hamner Avenue.

COMPLIANCE WITH THE ONTARIO PLAN: The proposed project is consistent with the principles, goals and policies contained within the Vision, Governance, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan (TOP). More specifically, the goals and policies of TOP that are furthered by the proposed project are as follows:

[1] City Council Goals.

- Invest in the Growth and Evolution of the City's Economy
- Operate in a Businesslike Manner
- Focus Resources in Ontario's Commercial and Residential Neighborhoods
- Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)
 - Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in the New Model Colony

[2] Vision.

Distinctive Development:

- Commercial and Residential Development
 - Development quality that is broadly recognized as distinctive and not exclusively tied to the general suburban character typical of much of Southern California.

[3] Governance.

Decision Making:

- Goal G1: Sustained decision-making that consistently moves Ontario towards its Vision by using The Ontario Plan as a framework for assessing choices.
 - G1-2 Long-term Benefit. We require decisions to demonstrate and document how they add value to the community and support the Ontario Vision

[4] Policy Plan (General Plan)

Land Use Element:

- Goal LU1: A community that has a spectrum of housing types and price ranges that match the jobs in the City and that make it possible for people to live and work in Ontario and maintain a quality of life.

- LU1-1 Strategic Growth. We concentrate growth in strategic locations that help create place and identity, maximize available and planned infrastructure, and foster the development of transit.

- LU1-6 Complete Community: We incorporate a variety of land uses and building types in our land use planning efforts that result in a complete community where residents at all stages of life, employers, workers and visitors have a wide spectrum of choices of where they can live, work, shop and recreate within Ontario. (Refer to Complete Community Section of Community Economics Element).

- Goal LU2: Compatibility between a wide range of uses.

- LU2-6: Infrastructure Compatibility: We require infrastructure to be aesthetically pleasing and in context with the community character.

Housing Element:

- Goal H2: Diversity of types of quality housing that are affordable to a range of household income levels, accommodate changing demographics, and support and reinforce the economic sustainability of Ontario.

- H2-4 New Model Colony. We support a premier lifestyle community in the New Model Colony distinguished by diverse housing, highest design quality, and cohesive and highly amenitized neighborhoods.

- H2-5 Housing Design. We require architectural excellence through adherence to City design guidelines, thoughtful site planning, environmentally sustainable practices and other best practices.

- Goal H5: A full range of housing types and community services that meet the special housing needs for all individuals and families in Ontario, regardless of income level, age or other status.

Community Economics Element:

- Goal CE1: A complete community that provides for all incomes and stages of life.

➤ CE1-6 Diversity of Housing. We collaborate with residents, housing providers and the development community to provide housing opportunities for every stage of life; we plan for a variety of housing types and price points to support our workforce, attract business and foster a balanced community.

Community Design Element:

▪ Goal CD1: A dynamic, progressive city containing distinct neighborhoods and commercial districts that foster a positive sense of identity and belonging among residents, visitors, and businesses.

➤ CD1-1 City Identity. We take actions that are consistent with the City being a leading urban center in Southern California while recognizing the diverse character of our existing viable neighborhoods.

➤ CD1-2 Growth Areas. We require development in growth areas to be distinctive and unique places within which there are cohesive design themes.

➤ CD1-3 Neighborhood Improvement. We require viable existing residential and non-residential neighborhoods to be preserved, protected, and enhanced in accordance with our land use policies.

▪ Goal CD2: A high level of design quality resulting in public spaces, streetscapes, and developments that are attractive, safe, functional and distinct.

➤ CD2-7 Sustainability. We collaborate with the development community to design and build neighborhoods, streetscapes, sites, outdoor spaces, landscaping and buildings to reduce energy demand through solar orientation, maximum use of natural daylight, passive solar and natural ventilation, building form, mechanical and structural systems, building materials and construction techniques.

➤ CD2-13 Entitlement Process. We work collaboratively with all stakeholders to ensure a high degree of certainty in the efficient review and timely processing of all development plans and permits.

HOUSING ELEMENT COMPLIANCE: WHEREAS, the project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and the proposed project is consistent with the number of dwelling units (852) and density (13.9 DU/AC) specified in the Available Land Inventory.

AIRPORT LAND USE COMPATIBILITY PLAN (ALUCP) COMPLIANCE: The project site is located within the Airport Influence Area of the Ontario International Airport (ONT),

and has been found to be consistent with the policies and criteria set forth within the ALUCP for ONT.

ENVIRONMENTAL REVIEW: The environmental impacts of this project were previously reviewed in conjunction with the Rich-Haven Specific Plan Amendment (PSPA16-001), for which an addendum to the Rich-Haven Specific Plan EIR (SCH# 2006051081) was adopted by the City Council on March 15, 2016. The application introduces no new significant environmental impacts. All previously adopted mitigation measures are to be a condition of project approval and are incorporated herein by reference.

CONDITIONS OF APPROVAL: See attached department reports.

TECHNICAL APPENDIX:

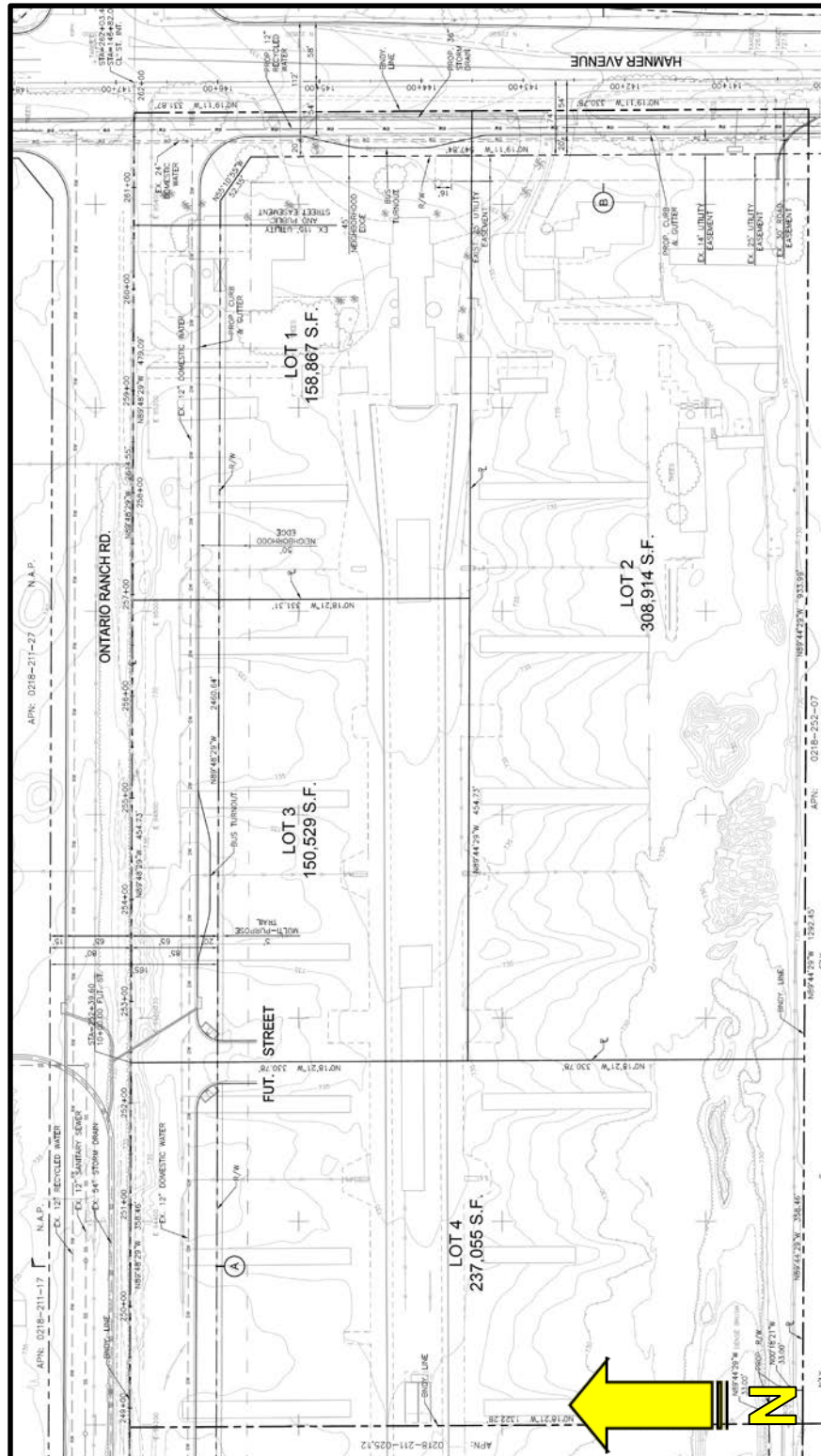
Surrounding Zoning and Land Use:

	<i>Existing Land Use</i>	<i>General Plan Designation</i>	<i>Zoning Designation</i>	<i>Specific Plan Land Use</i>
<i>Site</i>	Vacant	Mixed Use	Planning Area 8A – Rich-Haven Specific Plan	Regional Commercial/Mixed Use
<i>North</i>	Vacant	Mixed Use	Planning Area 7 – Rich-Haven Specific Plan	Regional Commercial/Mixed Use
<i>South</i>	Agricultural Uses	Medium Density Residential	Planning Area 8B – Rich-Haven Specific Plan	Regional Commercial/Mixed Use
<i>East</i>	City of Eastvale	N/A	N/A	N/A
<i>West</i>	Vacant	Mixed Use	Planning Area 8A – Rich-Haven Specific Plan	Regional Commercial/Mixed Use

General Site & Building Statistics

<i>Item</i>	<i>Proposed</i>	<i>Min./Max. Standard</i>	<i>Meets Y/N</i>
<i>Project Area:</i>	19.64 Acres	N/A	Y
<i>Lot/Parcel Size:</i>	Lot 1: 3.65 Acres Lot 2: 7.09 Acres Lot 3: 3.46 Acres Lot:4: 5.44 Acres	N/A	Y

EXHIBIT "A"
Tentative Parcel Map 19741



RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PMTT16-011, A TENTATIVE PARCEL MAP (FILE NO. PMTT16-011; PM 19741) TO SUBDIVIDE 19.64 ACRES OF LAND INTO 4 NUMBERED LOTS WITHIN THE REGIONAL COMMERCIAL/MIXED USE DISTRICT (PLANNING AREA 8A) OF THE RICH-HAVEN SPECIFIC PLAN, LOCATED AT THE SOUTHWEST CORNER OF ONTARIO RANCH ROAD AND HAMNER AVENUE, AND MAKING FINDINGS IN SUPPORT THEREOF—APN: 0218-211-25.

WHEREAS, GDIC-RCCD2-L.P. ("Applicant") has filed an Application for the approval of a Tentative Parcel Map, File No. PMTT16-011, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to 19.64 acres of land located at the southwest corner of Ontario Ranch Road and Hamner Avenue, within the Regional Commercial/Mixed Use district (Planning Area 8A) of the Rich-Haven Specific Plan, and is presently vacant; and

WHEREAS, the properties to the north, south and west of the project site are within the Regional Commercial/Mixed Use district of Planning Areas 7, 8A and 8B of the Rich-Haven Specific Plan and are vacant or developed with agricultural uses. The property to the east is within the City of Eastvale and is proposed for commercial development; and

WHEREAS, the Tentative Parcel Map proposed is in compliance with the requirements of the Rich-Haven Specific Plan and is sufficient in size to facilitate and implement the traditional planning concepts for the "Regional Commercial/Mixed Use" within the Specific Plan; and

WHEREAS, the proposed Tentative Parcel Map is located within Planning Area 8A (Regional Commercial/Mixed Use) land use district of the Rich-Haven Specific Plan, which establishes a development capacity of up to 325,000 square feet of Commercial/Office uses and 852 dwelling units; and

WHEREAS, the proposed Tentative Parcel Map will subdivide 19.64 acres of land into 4 numbered lots. The numbered lots range in size from 3.46 acres to 7.09 acres, with an average lot size of 4.91 acres. The Rich-Haven Specific Plan does not require a minimum lot size, however the Specific Plan states that the lot size shall be large enough to meet all Development Standards and to accommodate the minimum commercial threshold of 95,000 square feet for Planning Area 8A. The proposed lot sizes are sufficient to accommodate free standing residential and commercial development as well as mixed use developments; and

WHEREAS, a Development Agreement (File No. PDA16-003) has been filed in conjunction with the proposed Tentative Parcel Map and establishes the terms and conditions required for the development of the project; and

WHEREAS, the project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and the proposed project is consistent with the number of dwelling units (852) and density (13.9 DU/AC) specified in the Available Land Inventory.

WHEREAS, the proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plan (ALUCP) for ONT; and

WHEREAS, the Application is a project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA"); and

WHEREAS, the environmental impacts of this project were previously reviewed in conjunction with the Rich-Haven Specific Plan Amendment (PSPA16-001), for which an addendum to the Rich-Haven Specific Plan EIR (SCH# 2006051081) was adopted by the City Council on March 15, 2016. The application introduces no new significant environmental impacts. All previously adopted mitigation measures are be a condition of project approval and are incorporated herein by reference; and

WHEREAS, the City's "Local Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed; and

WHEREAS, on February 22, 2017, the Development Advisory Board of the City of Ontario conducted a hearing and issued Decision No. DAB17-009 recommending the Planning Commission approve the Application; and

WHEREAS, on February 28, 2017, the Planning Commission of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED, AND RESOLVED by the Planning Commission of the City of Ontario, as follows:

SECTION 1. Environmental Determination and Findings. As the decision-making body for the Project, the Planning Commission has reviewed and considered the information contained in the previously adopted Rich-Haven Specific Plan EIR (SCH# 2006051081) and supporting documentation. Based upon the facts and information contained in the Rich-Haven Specific Plan EIR (SCH# 2006051081) and supporting documentation, the Planning Commission finds as follows:

a. The previous Rich-Haven Specific Plan EIR (SCH# 2006051081) contains a complete and accurate reporting of the environmental impacts associated with the Project; and

b. The previous Rich-Haven Specific Plan EIR (SCH# 2006051081) was completed in compliance with CEQA and the Guidelines promulgated thereunder; and

c. The previous Rich-Haven Specific Plan EIR (SCH# 2006051081) reflects the independent judgment of the Planning Commission; and

d. All previously adopted mitigation measures, which are applicable to the Project, shall be a condition of Project approval and are incorporated herein by reference.

SECTION 2. Housing Element Consistency. Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as the decision-making body for the Project, the Planning Commission finds that based upon the facts and information contained in the Application and supporting documentation, at the time of Project implementation, the project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and the proposed project is consistent with the number of dwelling units (852) and density (13.9 DU/AC) specified in the Available Land Inventory.

SECTION 3. Airport Land Use Compatibility Plan (ALUCP) Consistency. As the decision-making body for the Project, the Planning Commission has reviewed and considered the facts and information contained in the Application and supporting documentation, and finds that, at the time of Project implementation, the Project will be consistent with the policies and criteria set forth within the ONT ALUCP.

SECTION 4. Concluding Facts and Reasons. Based upon the substantial evidence presented to the Planning Commission during the above-referenced hearing and upon the specific findings set forth in Section 1 above, the Planning Commission hereby concludes as follows:

a. The proposed map is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan, and applicable area and specific plans, and planned unit developments. The subdivision is consistent with The Ontario Plan Policy Plan (General Plan) and the Rich-Haven Specific Plan in that the proposed subdivision and lot sizes comply with the objectives and development standards of the Specific Plan.

b. The design or improvement of the proposed subdivision is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan, and applicable specific plans and planned unit developments. The design or improvement of the subdivision is consistent with all applicable general and specific plans. The Tentative Parcel Map meets all minimum size requirements specified within the Regional Commercial/Mixed Use (Planning Area 8A) land use districts and Development Standards of the Rich-Haven Specific Plan.

c. The site is physically suitable for the type of development proposed. The Tentative Parcel Map proposes to subdivide 19.64 acres of land into 4 numbered lots for the future Regional Commercial/Mixed Use development opportunities within Planning Area 8A of the Rich-Haven Specific Plan. The proposed lots range in size from 3.46 acres to 7.09 acres and is consistent with the Rich-Haven Specific Plan.

d. The site is physically suitable for the proposed density of development. The lots that will be created with the Tentative Parcel Map subdivision meet the development standards of the Rich-Haven Specific Plan – Regional Commercial/Mixed Use (Planning area 8A). The Specific Plan provides for the development of up to 325,000 square feet of Commercial/Office uses and 852 dwelling units.

e. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. The environmental impacts of this project were previously reviewed in conjunction with an addendum to the Rich-Haven Specific Plan EIR (SCH# 2006051081). This application is consistent with the previously adopted EIR and introduces no new significant environmental impacts.

f. The design of the subdivision or type of improvements are not likely to cause serious public health problems. The design of the subdivision or the proposed improvement is not likely to cause serious public health problems. The environmental impacts of this project were previously reviewed in conjunction with the addendum to the Rich-Haven Specific Plan EIR (SCH# 2006051081). This application is consistent with the previously adopted EIR and introduces no new significant environmental impacts.

g. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. The design of the subdivision will not conflict with any easement acquired by the public at large, then of record, for access through or use of the property within the proposed subdivision.

SECTION 5. Planning Commission Action. Based upon the findings and conclusions set forth in Sections 1 and 2 above, the Planning Commission hereby APPROVES the herein described Application subject to each and every condition set forth in the Department reports, attached hereto and incorporated herein by this reference.

SECTION 6. Indemnification. The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

SECTION 7. Custodian of Records. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 8. Certification to Adoption. The Secretary shall certify to the adoption of the Resolution.

The Secretary Pro Tempore for the Planning Commission of the City of Ontario shall certify as to the adoption of this Resolution.

I hereby certify that the foregoing Resolution was duly and regularly introduced, passed and adopted by the Planning Commission of the City of Ontario at a regular meeting thereof held on the 28th day of February 2017, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.

Jim Willoughby
Planning Commission Chairman

ATTEST:

Scott Murphy
Planning Director/Secretary of Planning
Commission

Planning Commission Resolution
File No. PMTT16-011
February 28, 2017
Page 7

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, Marci Callejo, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC16-[insert #] was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on February 28, 2017, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marci Callejo
Secretary Pro Tempore



City of Ontario
Planning Department
303 East B Street
Ontario, California 91764
Phone: 909.395.2036
Fax: 909.395.2420

Planning Department Land Development Division Conditions of Approval

Meeting Date: February 22, 2017

File No: PMTT16-011

Related Files: PDA16-003

Project Description: A Tentative Parcel Map (File No. PMTT16-011; PM 19741) to subdivide 19.64 acres of land into 4 numbered lots within the Regional Commercial/Mixed Use district (Planning Area 8A) of the Rich-Haven Specific Plan, located at the southwest corner of Ontario Ranch Road and Hamner Avenue. APN: 0218-211-25; **submitted by GDIC-RCCD2-L.P.**

Prepared By: Henry K. Noh, Senior Planner
Phone: 909.395.2429 (direct)
Email: hnoh@ontarioca.gov

The Planning Department, Land Development Section, conditions of approval applicable to the above-described Project, are listed below. The Project shall comply with each condition of approval listed below:

1.0 Standard Conditions of Approval. The project shall comply with the *Standard Conditions for New Development*, adopted by City Council Resolution No. 2010-021 on March 16, 2010. A copy of the *Standard Conditions for New Development* may be obtained from the Planning Department or City Clerk/Records Management Department.

2.0 Special Conditions of Approval. In addition to the *Standard Conditions for New Development* identified in condition no. 1.0, above, the project shall comply with the following special conditions of approval:

2.1 Time Limits.

(a) Tentative Parcel approval shall become null and void 2 years following the effective date of application approval, unless the final parcel/tract map has been recorded, or a time extension has been approved by the Planning Commission pursuant to Development Code Section 2.02.025 (Time Limits and Extensions). This Permit does not supersede any individual time limits specified herein for performance of specific conditions or improvements.

2.2 Subdivision Map.

(a) The Final Parcel Map shall be in conformance with the approved Tentative Parcel Map on file with the City. Variations from the approved Tentative Parcel Map may be reviewed and approved by the Planning Department. A substantial variation from the approved Tentative Parcel Map may require review and approval by the Planning Commission, as determined by the Planning Director.

(b) Tentative Parcel Map approval shall be subject to all conditions, requirements and recommendations from all other departments/agencies provided on the attached reports/memorandums.

(c) The subject Tentative Parcel Map for condominium purposes shall require the recordation of a condominium plan concurrent with the recordation of the Final Parcel Map and CC&Rs.

(d) Pursuant to California Government Section 66474.9, the subdivider agrees that it will defend, indemnify, and hold harmless the City of Ontario or its agents, officers and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void or annul any approval of the City of Ontario, whether by its City Council, Planning Commission or other authorized board or officer of this subdivision, which action is brought within the time period provided for in Government Code Section 66499.37. The City of Ontario shall promptly notify the subdivider of any such claim, action or proceeding and the City of Ontario shall cooperate fully in the defense.

2.3 General Requirements. The Project shall comply with the following general requirements:

(a) The project site shall be developed in conformance with the approved plans on file with the City. Any variation from the approved plans must be reviewed and approved by the Planning Department prior to building permit issuance.

(b) The herein-listed conditions of approval from all City departments shall be included in the construction plan set for project, which shall be maintained on site during project construction.

2.4 Landscaping.

(a) The Project shall provide and continuously maintain landscaping and irrigation systems in compliance with the provisions of Ontario Development Code Division 6.05 (Landscaping).

(b) Comply with the conditions of approval of the Planning Department; Landscape Planning Division.

(c) Landscaping shall not be installed until the Landscape and Irrigation Construction Documentation Plans required by Ontario Development Code Division 6.05 (Landscaping) have been approved by the Landscape Planning Division.

(d) Changes to approved Landscape and Irrigation Construction Documentation Plans, which affect the character or quantity of the plant material or irrigation system design, shall be resubmitted for approval of the revision by the Landscape Planning Division, prior to the commencement of the changes.

2.5 Walls and Fences. All Project walls and fences shall comply with the requirements of Ontario Development Code Division 6.02 (Walls, Fences and Obstructions).

2.6 Covenants, Conditions and Restrictions (CC&Rs)/Mutual Access and Maintenance Agreements.

(a) CC&Rs shall be prepared for the Project and shall be recorded prior to the issuance of a building permit.

(b) The CC&Rs shall be in a form and contain provisions satisfactory to the City. The articles of incorporation for the property owners association and the CC&Rs shall be reviewed and approved by the City.

(c) CC&Rs shall ensure reciprocal parking and access between parcels.

(d) CC&Rs shall ensure reciprocal parking and access between parcels, and common maintenance of:

(i) Landscaping and irrigation systems within common areas;

(ii) Landscaping and irrigation systems within parkways adjacent to the project site, including that portion of any public highway right-of-way between the property line or right-of-way boundary line and the curb line and also the area enclosed within the curb lines of a median divider (Ontario Municipal Code Section 7-3.03), pursuant to Ontario Municipal Code Section 5-22-02;

(iii) Shared parking facilities and access drives; and

(iv) Utility and drainage easements.

(e) CC&Rs shall include authorization for the City's local law enforcement officers to enforce City and State traffic and penal codes within the project area.

(f) The CC&Rs shall grant the City of Ontario the right of enforcement of the CC&R provisions.

(g) A specific methodology/procedure shall be established within the CC&Rs for enforcement of its provisions by the City of Ontario, if adequate maintenance of the development does not occur, such as, but not limited to, provisions that would grant the City the right of access to correct maintenance issues and assess the property owners association for all costs incurred.

2.7 Disclosure Statements.

(a) A copy of the Public Report from the Department of Real Estate, prepared for the subdivision pursuant to Business and Professions Code Section 11000 et seq., shall be provided to each prospective buyer of the residential units and shall include a statement to the effect that:

(i) This tract is subject to noise from the Ontario International Airport and may be more severely impacted in the future.

(ii) Some of the property adjacent to this tract is zoned for agricultural uses and there could be fly, odor, or related problems due to the proximity of animals.

(iii) The area south of Riverside Drive lies within the San Bernardino County Agricultural Preserve. Dairies currently existing in that area are likely to remain for the foreseeable future.

(iv) This tract is part of a Landscape Maintenance District. The homeowner(s) will be assessed through their property taxes for the continuing maintenance of the district.

2.8 Environmental Review.

(a) The environmental impacts of this project were previously reviewed in conjunction with File No. PSPA16-001, an amendment to the Rich-Haven Specific Plan for which an addendum to the Rich-Haven Specific Plan EIR (SCH# 2006051081) was previously adopted by the City Council on March 15, 2016. This application introduces no new significant environmental impacts. The City's "Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed. The previously adopted mitigation measures shall be a condition of project approval, and are incorporated herein by this reference.

(b) If human remains are found during project grading/excavation/construction activities, the area shall not be disturbed until any required investigation is completed by the County Coroner and Native American consultation has been completed (if deemed applicable).

(c) If any archeological or paleontological resources are found during project grading/excavation/construction, the area shall not be disturbed until the significance of the resource is determined. If determined to be significant, the resource shall be recovered by a qualified archeologist or paleontologist consistent with current standards and guidelines, or other appropriate measures implemented.

2.9 Indemnification. The applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void or annul any approval of the City of Ontario, whether by its City Council, Planning Commission or other authorized board or officer. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

2.10 Additional Fees.

(a) Within 5 days following final application approval, the Notice of Determination (NOD) filing fee shall be provided to the Planning Department. The fee shall be paid by check, made payable to the "Clerk of the Board of Supervisors", which shall be forwarded to the San Bernardino County Clerk of the Board of Supervisors, along with all applicable environmental forms/notices, pursuant to the requirements of the California Environmental Quality Act (CEQA). Failure to provide said fee within the time specified may result in a 180-day extension to the statute of limitations for the filing of a CEQA lawsuit.

(b) After the Project's entitlement approval, and prior to issuance of final building permits, the Planning Department's Plan Check and Inspection fees shall be paid at the rate established by resolution of the City Council.

2.11 Additional Requirements.

(a) The Tentative Parcel Map 19741 is contingent upon Planning Commission and City Council approval of the related Development Agreement (File No. PDA 16-003).

(b) All applicable conditions of approval of Development Agreement (File No. PDA16-003) shall apply to this parcel map.

(c) All applicable conditions of approval of the Rich-Haven Specific Plan shall apply to this parcel map.

CITY OF ONTARIO

MEMORANDUM

TO: PLANNING DEPARTMENT, Henry Noh
FROM: BUILDING DEPARTMENT, Kevin Shear
DATE: April 20, 2016
SUBJECT: PMTT16-011

-
- The plan **does** adequately address the departmental concerns at this time.
- No comments
- Report below.

Conditions of Approval

1. Standard Conditions of Approval apply.

KS : lm

AIRPORT LAND USE COMPATIBILITY PLANNING

CONSISTENCY DETERMINATION REPORT



Project File No.: PMTT16-011
 Address: SWC Hamner Ave and Ontario Ranch Rd
 APN: 0218-211- 25
 Existing Land Use: Vacant
 Proposed Land Use: Subdivide property into 4 lots for Commercial land uses
 Site Acreage: 19.64 Proposed Structure Height: n/a
 ONT-IAC Project Review: n/a
 Airport Influence Area: ONT

Reviewed By: Lorena Mejia
 Contact Info: 909-395-2276
 Project Planner: Henry Noh
 Date: 5/12/16
 CD No.: 2016-024
 PALU No.: n/a

The project is impacted by the following ONT ALUCP Compatibility Zones:

Safety	Noise Impact	Airspace Protection	Overflight Notification
<input type="radio"/> Zone 1	<input type="radio"/> 75+ dB CNEL	<input type="radio"/> High Terrain Zone	<input type="radio"/> Avigation Easement Dedication
<input type="radio"/> Zone 1A	<input type="radio"/> 70 - 75 dB CNEL	<input checked="" type="checkbox"/> FAA Notification Surfaces	<input type="radio"/> Recorded Overflight Notification
<input type="radio"/> Zone 2	<input type="radio"/> 65 - 70 dB CNEL	<input type="radio"/> Airspace Obstruction Surfaces	<input checked="" type="checkbox"/> Real Estate Transaction Disclosure
<input type="radio"/> Zone 3	<input type="radio"/> 60 - 65 dB CNEL	<input type="radio"/> Airspace Avigation Easement Area	
<input type="radio"/> Zone 4		Allowable Height: 200 FT +	
<input type="radio"/> Zone 5			

The project is impacted by the following Chino ALUCP Safety Zones:

Zone 1
 Zone 2
 Zone 3
 Zone 4
 Zone 5
 Zone 6
 Allowable Height: _____

CONSISTENCY DETERMINATION

This proposed Project is: Exempt from the ALUCP
 ● Consistent
 Consistent with Conditions
 Inconsistent

The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plan (ALUCP) for ONT.

Airport Planner Signature: _____



CITY OF ONTARIO

MEMORANDUM

TO: Otto Kroutil, Development Director
Scott Murphy, Planning Director
Cathy Wahlstrom, Principal Planner (Copy of memo only)
Charity Hernandez, Economic Development
Kevin Shear, Building Official
Khori D ~~Raymond Lee~~, Assistant City Engineer
Carolyn Bell, Landscape Planning Division
Sheldon Yu, Municipal Utility Company
Doug Sorel, Police Department
Art Andres, Deputy Fire Chief/Fire Marshal
Tom Danna, T. E., Traffic/Transportation Manager
Lorena Mejia, Associate Planner, Airport Planning (Copy of memo only)
Steve Wilson, Engineering/NPDES
Bob Gluck, Code Enforcement Director

FROM: Henry Noh,

DATE: April 19, 2016

SUBJECT: FILE #: PMTT16-011 Finance Acct#:

The following project has been submitted for review. Please send one (1) copy and email one (1) copy of your DAB report to the Planning Department by **Tuesday, May 3, 2016**.

- Note:
- Only DAB action is required
 - Both DAB and Planning Commission actions are required
 - Only Planning Commission action is required
 - DAB, Planning Commission and City Council actions are required
 - Only Zoning Administrator action is required

PROJECT DESCRIPTION: A Tentative Parcel Map (TPM 19741) to subdivide four lots into one 19.64 acre lot within the Regional Commercial Land Use Designation (PA6) of the Rich-Haven Specific Plan, located on the southwest corner of Ontario Ranch Road and Hamner Avenue (APN: 0218-211-25).

- The plan does adequately address the departmental concerns at this time.
 - No comments
 - Report attached (1 copy and email 1 copy)
 - Standard Conditions of Approval apply
- The plan does not adequately address the departmental concerns.
 - The conditions contained in the attached report must be met prior to scheduling for Development Advisory Board.

5/17/16

Landscape Planning Carolyn Bell Sr Landscape Planner
Department Signature Title Date

CITY OF ONTARIO
LANDSCAPE PLANNING DIVISION
 303 East "B" Street, Ontario, CA 91764

CONDITIONS OF APPROVAL	
Sign Off	
 Carolyn Bell, Sr. Landscape Planner	5/17/16 Date

Reviewer's Name: Carolyn Bell, Sr. Landscape Planner	Phone: (909) 395-2237
--	---------------------------------

D.A.B. File No.: PMTT16-011	Case Planner: Henry Noh
--------------------------------	----------------------------

Project Name and Location:
 Parcel Map for Rich Haven SP
 40.10 Acres SEC Mill Creek and Ontario Ranch Road
 Applicant/Representative:
 Distinguished Homes/ Fusco Engineering
 2850 Inland Empire Blvd Bldg B
 Ontario, CA

<input checked="" type="checkbox"/>	A Preliminary Landscape Plan (dated 4/7/16) meets the Standard Conditions for New Development and has been approved with the consideration that the following conditions below be met upon submittal of the landscape construction documents.
<input type="checkbox"/>	A Preliminary Landscape Plan (dated) has not been approved. Corrections noted below are required prior to Preliminary Landscape Plan approval.

CORRECTIONS REQUIRED

1. Include the Neighborhood Edge on the west side of Hamner (Not Milliken) – 45' wide including the 15' parkway, 5' sidewalk (20' right of way), per the Ontario Ranch Streetscape Master Plan.
2. Include the Neighborhood Edge on the south side of Ontario Ranch Road – 45-50' wide including the 15' ROW: 10' parkway, 5 sidewalk; then a 5' planter, 8' multipurpose trail and remainder is neighborhood edge per the Ontario Ranch Streetscape Master Plan.



CITY OF ONTARIO MEMORANDUM

TO: Otto Kroutil, Development Director
 Scott Murphy, Planning Director
 Cathy Wahlstrom, Principal Planner (Copy of memo only)
 Charity Hernandez, Economic Development
 Kevin Shear, Building Official
 Khoi Do ~~Raymond Lee~~, Assistant City Engineer
 Carolyn Bell, Landscape Planning Division
 Sheldon Yu, Municipal Utility Company
 Doug Sorel, Police Department
 Art Andres, Deputy Fire Chief/Fire Marshal
 Tom Danna, T. E., Traffic/Transportation Manager
 Lorena Mejia, Associate Planner, Airport Planning (Copy of memo only)
 Steve Wilson, Engineering/NPDES
 Bob Gluck, Code Enforcement Director

FROM: Henry Noh,

DATE: April 19, 2016

SUBJECT: FILE #: PMTT16-011 Finance Acct#:

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 - Only Planning Commission action is required
 - DAB, Planning Commission and City Council actions are required
 - Only Zoning Administrator action is required

PROJECT DESCRIPTION: A Tentative Parcel Map (TPM 19741) to subdivide four lots into one 19.64 acre lot within the Regional Commercial Land Use Designation (PA6) of the Rich-Haven Specific Plan, located on the southwest corner of Ontario Ranch Road and Hamner Avenue (APN: 0218-211-25).

- The plan does adequately address the departmental concerns at this time.
 - No comments
 - Report attached (1 copy and email 1 copy)
 - Standard Conditions of Approval apply
- The plan does not adequately address the departmental concerns.
 - The conditions contained in the attached report must be met prior to scheduling for Development Advisory Board.

POLICE
Department

DOUGLAS SOREL
Signature

MMT ANALYST
Title

4/28/16
Date



**ENGINEERING DEPARTMENT
CONDITIONS OF APPROVAL**

(Environmental, Traffic/Transportation Division, Ontario Municipal Utilities Company
Information Technology and Management Services Department conditions incorporated herein)

<input type="checkbox"/> DEVELOPMENT PLAN <input type="checkbox"/> OTHER	<input checked="" type="checkbox"/> PARCEL MAP <input type="checkbox"/> TRACT MAP <input type="checkbox"/> FOR CONDOMINIUM PURPOSES	
PROJECT FILE NO. PM-19741 RELATED FILE NO(S). PMTT16-011		
<input checked="" type="checkbox"/> ORIGINAL <input type="checkbox"/> REVISED: __/__/__		

CITY PROJECT ENGINEER & PHONE NO: Bryan Lirley, P.E., 909-395-2137

CITY PROJECT PLANNER & PHONE NO: Henry Noh, 909-395-2429

DAB MEETING DATE: February 22, 2017

PROJECT NAME / DESCRIPTION: PM-19741, a Tentative Parcel Map to subdivide 19.64 acres of land into four (4) parcels within the Rich-Haven Specific Plan

LOCATION: Southwest corner of Ontario Ranch Road and Hamner Avenue

APPLICANT: GDCI-RCCD 2 – L.P.

REVIEWED BY: 2.8.17
 Naiim Khoury, Associate Engineer Date

APPROVED BY: 2-8-17
 Khoi Do, P.E., Assistant City Engineer Date



THIS PROJECT SHALL COMPLY WITH THE REQUIREMENTS SET FORTH IN THE GENERAL STANDARD CONDITIONS OF APPROVAL ADOPTED BY THE CITY COUNCIL (RESOLUTION NO. 2010-021) AND THE PROJECT SPECIFIC CONDITIONS OF APPROVAL SPECIFIED IN HEREIN. ONLY APPLICABLE CONDITIONS OF APPROVAL ARE CHECKED. THE APPLICANT SHALL BE RESPONSIBLE FOR THE COMPLETION OF ALL APPLICABLE CONDITIONS OF APPROVAL PRIOR TO PARCEL MAP APPROVAL, ISSUANCE OF PERMITS AND/OR OCCUPANCY CLEARANCE, AS SPECIFIED IN THIS REPORT.

1. PRIOR TO PARCEL MAP APPROVAL, APPLICANT SHALL: Check When Complete

- 1.01 Dedicate to the City of Ontario in fee simple, the right-of-way, described below:
 - 1. At the southwest corner of Lot 4 as necessary to accommodate the intersection of the two internal streets as depicted on PM-19725.
 - 2. Additional 30' on the south side of Ontario Ranch Road for neighborhood edge.
 - 3. Additional 25' on the west side of Hamner Avenue for neighborhood edge.
- 1.02 Dedicate to the City of Ontario, the following easement(s): _____
- 1.03 Restrict vehicular access to the site as follows: Only approved access points per the Rich-Haven Specific Plan
- 1.04 Vacate the following street(s) and/or easement(s): _____
- 1.05 Submit a copy of a recorded private reciprocal use agreement or easement. The agreement or easement shall ensure, at a minimum, common ingress and egress and joint maintenance of all common access areas and drive aisles.
- 1.06 Provide (original document) Covenants, Conditions and Restrictions (CC&Rs) as applicable to the project and as approved by the City Attorney and the Engineering and Planning Departments, ready for recordation with the County of San Bernardino. The CC&Rs shall provide for, but not be limited to, common ingress and egress, joint maintenance responsibility for all common access improvements, common facilities, parking areas, utilities, median and landscaping improvements and drive approaches, in addition to maintenance requirements established in the Water Quality Management Plan (WQMP), as applicable to the project. The CC&Rs shall also address the maintenance and repair responsibility for public improvements/utilities (sewer, water, storm drain, recycled water, etc.) located within open space/easements. In the event of any maintenance or repair of these facilities, the City shall only restore disturbed areas to current City Standards.
- 1.07 File an application for Reapportionment of Assessment, together with payment of a reapportionment processing fee, for each existing assessment district listed below. Contact the Management Services Department at (909) 395-2124 regarding this requirement.
 - (1) _____
 - (2) _____
- 1.08 Prepare a fully executed Subdivision Agreement (on City approved format and forms) with accompanying security as required, or complete all public improvements.
- 1.09 Provide a monument bond (i.e. cash deposit) in an amount calculated by the City's approved cost estimate spreadsheet (available for download on the City's website: www.ci.ontario.ca.us) or as specified in writing by the applicant's Registered Engineer or Licensed Land Surveyor of Record and approved by the City Engineer, whichever is greater.
- 1.10 Provide a preliminary title report and subdivision guarantee current to within 30 days.



- 1.11 File an application, together with an initial deposit (if required), to establish a Community Facilities District (CFD) pursuant to the Mello-Roos Community Facilities District Act of 1982. The application and fee shall be submitted a minimum of three (3) months prior to final subdivision map approval, and the CFD shall be established prior to final subdivision map approval or issuance of building permits, whichever occurs first. The CFD shall be established upon the subject property to provide funding for various City services. An annual special tax shall be levied upon each parcel or lot in an amount to be determined. The special tax will be collected along with annual property taxes. The City shall be the sole lead agency in the formation of any CFD. Contact Management Services at (909) 395-2353 to initiate the CFD application process.

- 1.12 New Model Colony (NMC) Developments:
 - 1) Provide evidence of final cancellation of Williamson Act contracts associated with this tract, prior to approval of any final subdivision map. Cancellation of contracts shall have been approved by the City Council.
 - 2) Provide evidence of sufficient storm water capacity availability equivalents (Certificate of Storm Water Treatment Equivalents).
 - 3) Provide evidence of sufficient water availability equivalents (Certificate of Net MDD Availability).

- 1.13 Other conditions:
 1. The applicant/developer may need to coordinate with existing easement holders to relocate utilities and/or easements as necessary, per final approved site plan.
 2. Pursuant to the final approved site plan, applicant/developer may be required to dedicate reciprocal access easements to achieve compatibility with ultimate circulation system.

2. PRIOR TO ISSUANCE OF ANY PERMITS, APPLICANT SHALL:

**A. GENERAL
 (Permits includes Grading, Building, Demolition and Encroachment)**

- 2.01 Record Parcel Map No. 19741 pursuant to the Subdivision Map Act and in accordance with the City of Ontario Municipal Code.
- 2.02 Submit a duplicate photo mylar of the recorded map to the City Engineer's office.
- 2.03 Note that the subject parcel is a recognized parcel in the City of Ontario per _____
- 2.04 Note that the subject parcel is an 'unrecognized' parcel in the City of Ontario and shall require a Certificate of Compliance to be processed unless a deed is provided confirming the existence of the parcel prior to the date of _____
- 2.05 Apply for a: Certificate of Compliance with a Record of Survey; Lot Line Adjustment
 Make a Dedication of Easement.
- 2.06 Provide (original document) Covenants, Conditions and Restrictions (CC&R's), as applicable to the project, and as approved by the City Attorney and the Engineering and Planning Departments, ready for recordation with the County of San Bernardino. The CC&R's shall provide for, but not be limited to, common ingress and egress, joint maintenance of all common access improvements, common facilities, parking areas, utilities and drive approaches in addition to maintenance requirements established in the Water Quality Management Plan (WQMP), as applicable to the project.
- 2.07 Submit a soils/geology report.



- 2.08 Other Agency Permit/Approval: Submit a copy of the approved permit and/or other form of approval of the project from the following agency or agencies:
 - State of California Department of Transportation (Caltrans)
 - San Bernardino County Road Department (SBCRD)
 - San Bernardino County Flood Control District (SBCFCD)
 - Federal Emergency Management Agency (FEMA)
 - Cucamonga Valley Water District (CVWD) for sewer/water service
 - United States Army Corps of Engineers (USACE)
 - California Department of Fish & Game
 - Inland Empire Utilities Agency (IEUA)
 - Other: City of Eastvale (Hamner Avenue Improvement Plans)**

- 2.09 Dedicate to the City of Ontario the right-of-way described below:

_____ feet on _____

Property line corner 'cut-back' required at the intersection of _____
and _____.

- 2.10 Dedicate to the City of Ontario the following easement(s): _____

- 2.11 New Model Colony (NMC) Developments:
 - 1) Submit a copy of the permit from the San Bernardino County Health Department to the Engineering Department and the Ontario Municipal Utilities Company (OMUC) for the destruction/abandonment of the on-site water well. The well shall be destroyed/abandoned in accordance with the San Bernardino County Health Department guidelines.
 - 2) Make a formal request to the City of Ontario Engineering Department for the proposed temporary use of an existing agricultural water well for purposes other than agriculture, such as grading, dust control, etc. Upon approval, the Applicant shall enter into an agreement with the City of Ontario and pay any applicable fees as set forth by said agreement.
 - 3) Design proposed retaining walls to retain up to a maximum of three (3) feet of earth. In no case shall a wall exceed an overall height of nine (9) feet (i.e. maximum 6-foot high wall on top of a maximum 3-foot high retaining wall).

- 2.12 Submit a security deposit to the Engineering Department to guarantee construction of the public improvements required herein valued at _____% of the approved construction cost estimate. Security deposit shall be in accordance with the City of Ontario Municipal Code. Security deposit will be eligible for release, in accordance with City procedure, upon completion and acceptance of said public improvements.

- 2.13 **The applicant/developer shall submit all necessary survey documents prepared by a Licensed Surveyor registered in the State of California detailing all existing survey monuments in and around the project site. These documents are to be reviewed and approved by the City Survey Office.**

- 2.14 Pay all Development Impact Fees (DIF) to the Building Department.

- 2.15 Other conditions: _____



B. PUBLIC IMPROVEMENTS

(See attached Exhibit 'A' for plan check submittal requirements.)

- 2.16 Design and construct full public improvements in accordance with the City of Ontario Municipal Code, current City standards and specifications, master plans and the adopted specific plan for the area, if any. These public improvements shall include, but not be limited to, the following (checked boxes):

Improvement	Ontario Ranch Road	Hamner Avenue	Street 3	Street 4
Curb and Gutter	<input checked="" type="checkbox"/> New; 65 ft. South of C/L <input type="checkbox"/> Replace damaged <input type="checkbox"/> Remove and replace	<input checked="" type="checkbox"/> New; 54 ft. West of C/L <input type="checkbox"/> Replace damaged <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New; ___ ft. from C/L <input type="checkbox"/> Replace damaged <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New; ___ ft. from C/L <input type="checkbox"/> Replace damaged <input type="checkbox"/> Remove and replace
AC Pavement	<input type="checkbox"/> Replacement <input checked="" type="checkbox"/> Widen 22 additional feet along frontage, including pavm't transitions	<input checked="" type="checkbox"/> Replacement to proposed median <input type="checkbox"/> Widen additional feet along frontage, including pavm't transitions	<input type="checkbox"/> Replacement <input type="checkbox"/> Widen ___ additional feet along frontage, including pavm't transitions	<input type="checkbox"/> Replacement <input type="checkbox"/> Widen ___ additional feet along frontage, including pavm't transitions
PCC Pavement (Truck Route Only)	<input type="checkbox"/> New <input checked="" type="checkbox"/> Widen 22 feet along frontage	<input type="checkbox"/> New <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing
Drive Approach	<input checked="" type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace
Sidewalk	<input checked="" type="checkbox"/> New (South side + 8' MPT) <input type="checkbox"/> Remove and replace	<input checked="" type="checkbox"/> New (West side) <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace
ADA Access Ramp	<input checked="" type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace
Parkway	<input checked="" type="checkbox"/> Trees <input checked="" type="checkbox"/> Landscaping (w/irrigation)	<input checked="" type="checkbox"/> Trees <input checked="" type="checkbox"/> Landscaping (w/irrigation)	<input type="checkbox"/> Trees <input type="checkbox"/> Landscaping (w/irrigation)	<input type="checkbox"/> Trees <input type="checkbox"/> Landscaping (w/irrigation)
Raised Landscaped Median	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input checked="" type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace	<input type="checkbox"/> New <input type="checkbox"/> Remove and replace



Fire Hydrant	<input checked="" type="checkbox"/> New / Upgrade <input type="checkbox"/> Relocation	<input checked="" type="checkbox"/> New / Upgrade <input type="checkbox"/> Relocation	<input type="checkbox"/> New / Upgrade <input type="checkbox"/> Relocation	<input type="checkbox"/> New / Upgrade <input type="checkbox"/> Relocation
Sewer (see Sec. 2.C)	<input type="checkbox"/> Main <input type="checkbox"/> Lateral	<input type="checkbox"/> Main <input type="checkbox"/> Lateral	<input type="checkbox"/> Main <input type="checkbox"/> Lateral	<input type="checkbox"/> Main <input type="checkbox"/> Lateral
Water (see Sec. 2.D)	<input type="checkbox"/> Main <input type="checkbox"/> Service	<input type="checkbox"/> Main <input type="checkbox"/> Service	<input type="checkbox"/> Main <input type="checkbox"/> Service	<input type="checkbox"/> Main <input type="checkbox"/> Service
Recycled Water (see Sec. 2.E)	<input type="checkbox"/> Main <input type="checkbox"/> Service	<input checked="" type="checkbox"/> Main <input type="checkbox"/> Service	<input type="checkbox"/> Main <input type="checkbox"/> Service	<input type="checkbox"/> Main <input type="checkbox"/> Service
Traffic Signal System (see Sec. 2.F)	<input checked="" type="checkbox"/> New (Ontario Ranch/Map Entry) <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing
Traffic Signing and Striping (see Sec. 2.F)	<input type="checkbox"/> New <input checked="" type="checkbox"/> Modify existing	<input type="checkbox"/> New <input checked="" type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing
Street Light (see Sec. 2.F)	<input checked="" type="checkbox"/> New <input type="checkbox"/> Relocation	<input checked="" type="checkbox"/> New <input type="checkbox"/> Relocation	<input type="checkbox"/> New / Upgrade <input type="checkbox"/> Relocation	<input type="checkbox"/> New / Upgrade <input type="checkbox"/> Relocation
Bus Turn-out (see Sec. 2.F)	<input checked="" type="checkbox"/> New <input type="checkbox"/> Modify existing	<input checked="" type="checkbox"/> New <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing	<input type="checkbox"/> New <input type="checkbox"/> Modify existing
Storm Drain (see Sec. 2G)	<input type="checkbox"/> Main <input checked="" type="checkbox"/> Lateral	<input checked="" type="checkbox"/> Main <input checked="" type="checkbox"/> Lateral	<input type="checkbox"/> Main <input type="checkbox"/> Lateral	<input type="checkbox"/> Main <input type="checkbox"/> Lateral
Fiber Optics (see Sec. 2K)	<input checked="" type="checkbox"/> Conduit / Appurtenances	<input checked="" type="checkbox"/> Conduit / Appurtenances	<input type="checkbox"/> Conduit / Appurtenances	<input type="checkbox"/> Conduit / Appurtenances
Overhead Utilities	<input type="checkbox"/> Underground <input type="checkbox"/> Relocate	<input type="checkbox"/> Underground <input type="checkbox"/> Relocate	<input type="checkbox"/> Underground <input type="checkbox"/> Relocate	<input type="checkbox"/> Underground <input type="checkbox"/> Relocate
Removal of Improvements	_____	_____	_____	_____
Other Improvements	_____	_____	_____	_____

Specific notes for improvements listed in item no. 2.15, above: _____



- 2.17 Construct a 0.15' asphalt concrete (AC) grind and overlay on the following street(s): _____
- 2.18 Reconstruct the full pavement structural section per City of Ontario Standard Drawing number 1011, based on existing pavement condition and approved street section design. Minimum limits of reconstruction shall be along property frontage, from street centerline to curb/gutter. 'Pothole' verification of existing pavement section required prior to acceptance/approval of street improvement plan.
- 2.19 Make arrangements with the Cucamonga Valley Water District (CVWD) to provide water service sewer service to the site. This property is within the area served by the CVWD and Applicant shall provide documentation to the City verifying that all required CVWD fees have been paid.
- 2.20 Other conditions: _____

C. SEWER

- 2.21 **A 12 inch sewer main is available for connection by this project in Ontario Ranch Road, however, this line is currently a dry line, refer to Condition 2.22. (Ref: Sewer plan bar code: S15332)**
- 2.22 **A sewer main is not available for direct connection. Design and construct master plan sewer lines along Merrill, Bellegrave, and Mill Creek from Ontario Ranch Road to connect to the existing Merrill Avenue Trunk Sewer, located approximately 3,200' east of Archibald Avenue; including all in-tract sewer lines to service the project**
- 2.23 Submit documentation that shows expected peak loading values for modeling the impact of the subject project to the existing sewer system. The project site is within a deficient public sewer system area. Applicant shall be responsible for all costs associated with the preparation of the model. Based on the results of the analysis, Applicant may be required to mitigate the project impact to the deficient public sewer system, including, but not limited to, upgrading of existing sewer main(s), construction of new sewer main(s) or diversion of sewer discharge to another sewer.
- 2.24 Other conditions: _____

D. WATER

- 2.25 **A 12 inch water main is available for connection by this project in Ontario Ranch Road. (Ref: Water plan bar code: W15611)**
- 2.26 Design and construct a water main extension. A water main is not available for direct connection. The closest main is approximately _____ feet away.
- 2.27 **Other conditions:**
 - 1. **Design and construct all in-tract water lines to service the project. Ensure the project is serviced by two separate points of connection.**

E. RECYCLED WATER

- 2.28 **A 12 inch recycled water main is available for connection by this project in Ontario Ranch Road. (Ref: Recycled Water plan bar code: P11417)**
- 2.29 **Construct an on-site recycled water system for this project.**
- 2.30 Design and construct an on-site recycled water ready system for this project. A recycled water main does not currently exist in the vicinity of this project, but is planned for the near future. Applicant shall be responsible for construction of a connection to the recycled water main for approved uses, when the main becomes available. The cost for connection to the main shall be borne solely by Applicant.



- 2.31 Submit two (2) hard copies and one (1) electronic copy, in PDF format, of the Engineering Report (ER), for the use of recycled water, to the OMUC for review and subsequent submittal to the California Department of Public Health (CDPH) for final approval.

Note: The OMUC and the CDPH review and approval process will be approximately three (3) months. Contact the Ontario Municipal Utilities Company at (909) 395-2687 regarding this requirement.

- 2.32 **Other conditions:**
1. **Design and construct Hamner (Milliken) frontage master plan recycled water line, between Ontario Ranch Road and southerly P/L.**

F. TRAFFIC / TRANSPORTATION

- 2.33 Submit a focused traffic impact study, prepared and signed by a Traffic/Civil Engineer registered in the State of California. The study shall address, but not be limited to, the following issues as required by the City Engineer:
1. On-site and off-site circulation
2. Traffic level of service (LOS) at 'build-out' and future years
3. Impact at specific intersections as selected by the City Engineer

- 2.34 **Other conditions:**
1. **The applicant/developer shall be responsible to design and construct a bus turnout, in accordance with Omnitrans Bus Stop Design Guidelines: on the west side of Hamner Avenue south of Ontario Ranch Road; and the south side of Ontario Ranch Road, east of the West Entry.**
2. **The applicant/developer shall be responsible to construct half width improvements of Hamner Avenue along the property frontage to achieve ultimate half width in accordance with City of Ontario Standards. The Hamner Avenue half width street section is 74-foot right of way (centerline to westerly right of way), 14-foot raised median, 40-foot roadway and 45-foot neighborhood edge. All street improvements shall include concrete curb and gutter, including sidewalk, street lights, signing and striping, parkway landscaping and appropriate pavement transitions as needed to accommodate lane shifts.**
3. **Hamner Avenue and Ontario Ranch Road shall be posted "No Stopping Anytime."**
4. **The Applicant/Developer's engineer-of-record shall meet with City Engineering staff prior to starting traffic signal, signing and striping and/or street lighting design to discuss items such as signal phasing, striping layout and tie-ins to existing or future street light circuits.**
5. **Dedicate traffic signal easements for "Future Street" (Access between Lots 3 and 4).**
6. **At the time of development of the resultant lots and prior to any traffic generation on Map Entry, the Applicant/Developer shall be responsible to design and construct a DIF-participating traffic signal system at Ontario Ranch Road and "Future Street".**
7. **Pedestrian paseos will be required to provide direct pedestrian access from future developments to transit stops, e.g. bus pads and turnouts.**

G. DRAINAGE / HYDROLOGY

- 2.35 Submit a hydrology study and drainage analysis, prepared and signed by a Civil Engineer registered in the State of California. The study shall be prepared in accordance with the San Bernardino County Hydrology Manual and City of Ontario standards and guidelines. Additional drainage facilities, including, but not limited to, improvements beyond the project frontage, may be required to be designed and constructed, by Applicant, as a result of the findings of this study.



- 2.36 An adequate drainage facility to accept additional runoff from the site does not currently exist downstream of the project. Design and construct a storm water detention facility on the project site. 100 year post-development peak flow shall be attenuated such that it does not exceed 80% of pre-development peak flows, in accordance with the approved hydrology study and improvement plans.
- 2.37 Submit a copy of a recorded private drainage easement or drainage acceptance agreement to the Engineering Department for the acceptance of any increase to volume and/or concentration of historical drainage flows onto adjacent property, prior to approval of the grading plan for the project.
- 2.38 Comply with the City of Ontario Flood Damage Prevention Ordinance (Ordinance No. 2409). The project site or a portion of the project site is within the Special Flood Hazard Area (SFHA) as indicated on the Flood Insurance Rate Map (FIRM) and is subject to flooding during a 100 year frequency storm. The site plan shall be subject to the provisions of the National Flood Insurance Program.
- 2.39 Pay Storm Drain Development Impact Fee, approximately _____, Fee shall be paid to the Building Department. Final fee shall be determined based on the approved site plan.
- 2.40 **Other conditions:**
 - 1. **Storm Drain Development Impact Fee shall be calculated at site plan submittal.**
 - 2. **Design and construct storm drain improvements in Hamner (Milliken) Avenue from Ontario Ranch Road connecting to the County Line Channel in Bellegrave Avenue.**

H. STORM WATER QUALITY / NATIONAL POLLUTANT DISCHARGE AND ELIMINATION SYSTEM (NPDES)

- 2.41 401 Water Quality Certification/404 Permit – Submit a copy of any applicable 401 Certification or 404 Permit for the subject project to the City project engineer. Development that will affect any body of surface water (i.e. lake, creek, open drainage channel, etc.) may require a 401 Water Quality Certification from the California Regional Water Quality Control Board, Santa Ana Region (RWQCB) and a 404 Permit from the United States Army Corps of Engineers (USACE). The groups of water bodies classified in these requirements are perennial (flow year round) and ephemeral (flow during rain conditions, only) and include, but are not limited to, direct connections into San Bernardino County Flood Control District (SBCFCD) channels. If a 401 Certification and/or a 404 Permit are not required, a letter confirming this from Applicant's engineer shall be submitted. Contact information: USACE (Los Angeles District) (213) 452-3414; RWQCB (951) 782-4130.
- 2.42 Submit a Water Quality Management Plan (WQMP). This plan shall be approved by the Engineering Department prior to approval of any grading plan. The WQMP shall be submitted, utilizing the current San Bernardino County Stormwater Program template, available at: <http://www.sbcounty.gov/dpw/land/npdes.asp>.
- 2.43 **Other conditions:**
 - 1. **WQMP shall be required at site plan submittal.**

J. SPECIAL DISTRICTS

- 2.44 File an application, together with an initial payment deposit (if required), to establish a Community Facilities District (CFD) pursuant to the Mello-Roos Community facilities District Act of 1982. The application and fee shall be submitted a minimum three (3) months prior to final subdivision map approval, and the CFD shall be established prior to final subdivision map approval or issuance of building permits, whichever occurs first. The CFD shall be established upon the subject property to provide funding for various City services. An annual special tax shall be levied upon each parcel or lot in an amount to be determined. The special tax will be collected along with annual property taxes. The City shall be the sole lead agency in the formation of any CFD. Contact the Management Services Department at (909) 395-2353 to initiate the CFD application process.
- 2.45 Other conditions: _____



K. FIBER OPTIC

- 2.46 Design and construct fiber optic system to provide access to the City's conduit and fiber optic system per the City's Fiber Optic Master Plan. Building entrance conduits shall start from the closest OntarioNet hand hole constructed along the project frontage in the ROW and shall terminate in the main telecommunications room for each building. Conduit infrastructure shall interconnect with the primary and/or secondary backbone fiber optic conduit system at the nearest OntarioNet hand hole. Generally located along the project frontage of Ontario Ranch Road and Mill Creek Avenue, see Fiber Optic Exhibit herein.

- 2.47 Refer to the City's Fiber Optic Master Plan for design and layout guidelines. Contact the Information Technology Department at (909) 395-2000, regarding this requirement.

L. Solid Waste

- 2.48 Onsite solid waste shall be designed in accordance with the City's Solid Waste Manual location at:
<http://www.ontarioca.gov/municipal-utilities-company/solid-waste>

- 2.49 Other conditions: _____



3. PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY, APPLICANT SHALL:

- 3.01 **Set new monuments in place of any monuments that have been damaged or destroyed as a result of construction of the subject project. Monuments shall be set in accordance with City of Ontario standards and to the satisfaction of the City Engineer.**

- 3.02 Complete all requirements for recycled water usage.
 - 1) Procure from the OMUC a copy of the letter of confirmation from the California Department of Public Health (CDPH) that the Engineering Report (ER) has been reviewed and the subject site is approved for the use of recycled water.
 - 2) Obtain clearance from the OMUC confirming completion of recycled water improvements and passing of shutdown tests and cross connection inspection, upon availability/usage of recycled water.
 - 3) Complete education training of on-site personnel in the use of recycled water, in accordance with the ER, upon availability/usage of recycled water.

- 3.03 **The applicant/developer shall submit all final survey documents prepared by a Licensed Surveyor registered in the State of California detailing all survey monuments that have been preserved, revised, adjusted or set along with any maps, corner records or Records of Survey needed to comply with these Conditions of Approvals and the latest edition of the California Professional Land Survey Act. These documents are to be reviewed and approved by the City Survey Office.**

- 3.04 **NMC Projects: For developments located at an intersection of any two collector or arterial streets, the applicant/developer shall set a benchmark if one does not already exist at that intersection. Contact the City Survey office for information on reference benchmarks, acceptable methodology and required submittals.**

- 3.05 Confirm payment of all Development Impact Fees (DIF) to the Building Department.

- 3.06 **Submit electronic copies (PDF and Auto CAD format) of all approved improvement plans, studies and reports (i.e. hydrology, traffic, WQMP, etc.).**



EXHIBIT 'A'

ENGINEERING DEPARTMENT First Plan Check Submittal Checklist

Project Number: PMTT 16-011 , and/or Parcel Map No. 19741

The following items are required to be included with the first plan check submittal:

1. **A copy of this check list**
2. **Payment of fee for Plan Checking**
3. **One (1) copy of Engineering Cost Estimate (on City form) with engineer's wet signature and stamp.**
4. **One (1) copy of project Conditions of Approval**
5. Two (2) sets of Potable and Recycled Water demand calculations (include water demand calculations showing low, average and peak water demand in GPM for the proposed development and proposed water meter size).
6. Three (3) sets of Public Street improvement plan with street cross-sections
7. Three (3) sets of Private Street improvement plan with street cross-sections
8. Four (4) sets of Public Water improvement plan (include water demand calculations showing low, average and peak water demand in GPM for the proposed development and proposed water meter size)
9. Four (4) sets of Recycled Water improvement plan (include recycled water demand calculations showing low, average and peak water demand in GPM for the proposed development and proposed water meter size and an exhibit showing the limits of areas being irrigated by each recycled water meter)
10. Four (4) sets of Public Sewer improvement plan
11. Five (5) sets of Public Storm Drain improvement plan
12. Three (3) sets of Public Street Light improvement plan
13. Three (3) sets of Signing and Striping improvement plan
14. **Three (3) sets of Fiber Optic plan (include Auto CAD electronic submittal)**
15. **Three (3) sets of Dry Utility plans within public right-of-way (at a minimum the plans must show existing and ultimate right-of-way, curb and gutter, proposed utility location including centerline dimensions, wall to wall clearances between proposed utility and adjacent public line, street work repaired per Standard Drawing No. 1306. Include Auto CAD electronic submittal)**
16. Three (3) sets of Traffic Signal improvement plan and One (1) copy of Traffic Signal Specifications with modified Special Provisions. Please contact the Traffic Division at (909) 395-2154 to obtain Traffic Signal Specifications.
17. Two (2) copies of Water Quality Management Plan (WQMP), including one (1) copy of the approved Preliminary WQMP (PWQMP).
18. One (1) copy of Hydrology/Drainage study
19. One (1) copy of Soils/Geology report
20. **Payment for Final Map/Parcel Map processing fee**
21. **Three (3) copies of Final Map/Parcel Map**



- 22. **One (1) copy of approved Tentative Map**
- 23. **One (1) copy of Preliminary Title Report (current within 30 days)**
- 24. **One (1) copy of Traverse Closure Calculations**
- 25. **One (1) set of supporting documents and maps (legible copies): referenced improvement plans (full size), referenced record final maps/parcel maps (full size, 18"x26"), Assessor's Parcel map (full size, 11"x17"), recorded documents such as deeds, lot line adjustments, easements, etc.**
- 26. Two (2) copies of Engineering Report and an electronic file (include PDF format electronic submittal) for recycled water use
- 27. Other: _____



PLANNING COMMISSION STAFF REPORT

February 28, 2017

SUBJECT: A Development Agreement between the City of Ontario and GDIC-RCCD2-L.P., to establish the terms and conditions for the development of Tentative Parcel Maps 19725 (File No. PMTT16-010) and 19741 (File No. PMTT16-011) within the Regional Commercial/Mixed Use district (Planning Area 8A) of the Rich-Haven Specific Plan, located on the south side of Ontario Ranch Road, between Mill Creek Avenue and Hamner Avenue (APNs: 0218-211-12 and 0218-211-25). **Submitted by GDIC-RCCD2-L.P. City Council action is required**

PROPERTY OWNER: GDIC-RCCD2-L.P.

RECOMMENDED ACTION: That the Planning Commission recommend to the City Council approval of File No. PDA16-003, a Development Agreement between GDIC-RCCD2-L.P. and the City of Ontario, pursuant to the facts and reasons contained in the staff report and attached resolution.

PROJECT SETTING: The project site is comprised of 59.74 acres of land located on the south side of Ontario Ranch Road, between Mill Creek Avenue and Hamner Avenue, within the Regional Commercial/Mixed Use district (Planning Area 8A) of the Rich-Haven Specific Plan, and is depicted in **Figure 1: Project Location**, below. The project site gently slopes from north to south and is vacant.

PROJECT ANALYSIS:

[1] Background — On December 4, 2007, the City Council approved the Rich-Haven Specific Plan (File No. PSP05-004) and certified the Environmental Impact Report (EIR) for the Specific Plan. The Specific Plan established the land use designations, development standards, and design guidelines for approximately 512 acres of land, which included the potential development of

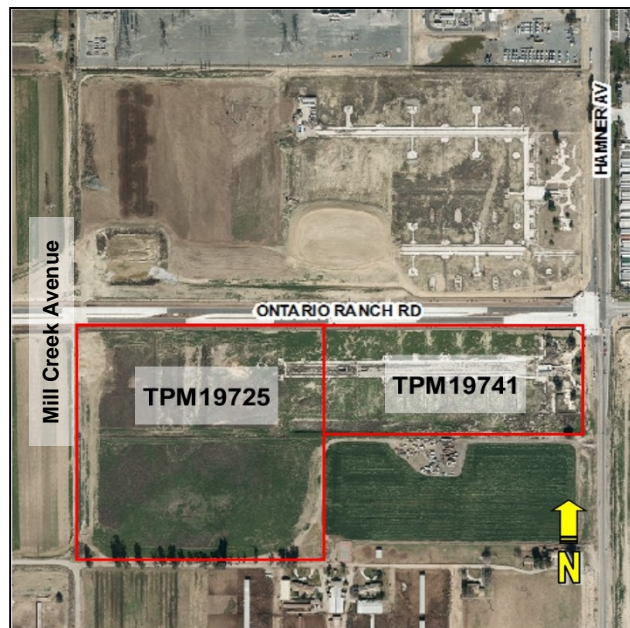


Figure 1: Project Location

Case Planner:	Rudy Zeledon, Principal Planner	Hearing Body	Date	Decision	Action
Planning Director Approval:		DAB	N/A	N/A	
Submittal Date:	06/19/2016	ZA			
Hearing Deadline:	03/19/2017	PC	02/28/2017		Recommend
		CC			Final

4,256 residential units and 889,200 square feet of commercial/office. Subsequently on March 15, 2016, the City Council approved an Amendment (File No. PSPA16-001) to the Rich-Haven Specific Plan, which changed land use designations, reconfigured planning area boundaries, and increased the potential residential unit count to 4,866 and commercial/office maximum square feet to 1,039,200.

The Ontario Ranch financial commitments required for construction of properties within a specific plan are substantial. Therefore, on order to adequately forecast these costs and gain assurance that the project may proceed under the existing policies, rules and regulations, GDIC-RCCD2-L.P., has requested that the City enter into negotiations to create a Development Agreement (“Agreement”).

In accordance with California Government Code Section 65865 that states, in part, that “Any city...may enter into a Development Agreement with any person having a legal or equitable interest in real property for the development of such property...” and California Government Code Section 65865.52 which states, in part, that a Development Agreement shall specify the duration of the Agreement, the permitted uses of the property... and may include conditions, terms, restrictions...,” the City of Ontario adopted Resolution No. 2002-100 that sets forth the procedures and requirements for consideration of Development Agreements. Furthermore, the Financing and Construction Agreement with the NMC Builders, LLC (NMC Builders), requires those developments wishing to use the infrastructure it creates to enter into Development Agreements with the City of Ontario. Pursuant to these procedures and requirements, staff entered into negotiations with the Owner to create a Development Agreement staff would recommend to the Planning Commission and City Council.

The proposed Development Agreement with the Owner is based upon the model development agreement that was developed in coordination with the City attorney’s office and legal counsel for NMC Builders. This model Development Agreement is consistent with the provisions of the Construction Agreement. The LLC agreement between NMC Builders’ members requires that members of the LLC enter into Development Agreements that are consistent with the provisions of the Construction Agreement.

[2] Staff Analysis —The Development Agreement proposes to include 59.74 acres of land within Planning Area 8A of the Rich-Haven Specific Plan as shown in **Figure 1. Project Location**. The Agreement grants GDIC-RCCD2-L.P., a vested right to develop Tentative Parcel Maps 19725 and 19741 as long as GDIC-RCCD2-L.P. complies with the terms and conditions of the Rich-Haven Specific Plan and Environmental Impact Report. Tentative Parcel Map 19725 is located on the southeast corner of Ontario Ranch Road and Mill Creek Avenue and proposes to subdivide 40.10 acres of land into four numbered lots and one lettered lot. Tentative Parcel Map 19741 is located on the southwest corner of Ontario Ranch Road and Hamner Avenue and proposes to subdivide 19.64 acres of land into four lots.

The term of the Development Agreement is for ten years with a five year option. The main points of the agreement address funding for all new City expenses created by the project which includes; Development Impact Fees (DIF) for construction of public improvements (i.e. streets and bridges, police, fire, open space/parks etc.); Public Service Funding to ensure adequate provisions of public services (police, fire and other public services); the creation of a Community Facilities District (CFD) for reimbursement of public improvements and maintenance of public facilities; and the Park/Open Space Policy Plan requirement of five acres per 1,000 projected population through park dedication and/or the payment of in-lieu fees. Other points addressed by the Agreement include provisions for affordable housing, as required by the Policy Plan, through construction, rehabilitation, or by paying an in-lieu fee, and satisfaction of the Mountain View Elementary School District and Chaffey High School District school facilities requirements.

Staff finds that the Development Agreement is consistent with State law, The Ontario Plan, and the City's Development Agreement policies. As a result, staff is recommending approval of the application to the Planning Commission. If the Commission finds the Development Agreement is acceptable, a recommendation of approval to the City Council would be appropriate.

COMPLIANCE WITH THE ONTARIO PLAN: The proposed project is consistent with the principles, goals and policies contained within the Vision, Governance, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan (TOP). More specifically, the goals and policies of TOP that are furthered by the proposed project are as follows:

[1] City Council Goals.

- Invest in the Growth and Evolution of the City's Economy
- Operate in a Businesslike Manner
- Focus Resources in Ontario's Commercial and Residential Neighborhoods

[2] Vision.

Distinctive Development:

- Commercial and Residential Development
 - Development quality that is broadly recognized as distinctive and not exclusively tied to the general suburban character typical of much of Southern California.

[3] Governance.

Decision Making:

- Goal G1: Sustained decision-making that consistently moves Ontario towards its Vision by using The Ontario Plan as a framework for assessing choices.

- G1-2 Long-term Benefit. We require decisions to demonstrate and document how they add value to the community and support the Ontario Vision

[4] Policy Plan (General Plan)

Land Use Element:

- Goal LU1: A community that has a spectrum of housing types and price ranges that match the jobs in the City and that make it possible for people to live and work in Ontario and maintain a quality of life.

- LU1-1 Strategic Growth. We concentrate growth in strategic locations that help create place and identity, maximize available and planned infrastructure, and foster the development of transit.

- LU1-3 Adequate Capacity. We require adequate infrastructure and services for all development.

- LU1-6 Complete Community. We incorporate a variety of land uses and building types in our land use planning efforts that result in a complete community where residents at all stages of life, employers, workers and visitors have a wide spectrum of choices of where they can live, work, shop and recreate within Ontario.

- Goal LU2: Compatibility between a wide range of uses.

- LU2-6: Infrastructure Compatibility: We require infrastructure to be aesthetically pleasing and in context with the community character.

- Goal LU3: Development that provides short-term value only when the opportunity to achieve our Vision can be preserved.

- LU3-1: Development Standards. We maintain clear development standards which allow flexibility to achieve our vision.

- LU3-3 Land Use Flexibility. We consider uses not typically permitted within a land use category if doing so improves livability, reduces vehicular trips, creates community gathering places and activity nodes, and helps create identity.

- Goal LU4: Development that provides short-term value only when the opportunity to achieve our Vision can be preserved.

➤ LU4-1 Commitment to Vision. We are committed to achieving our vision but realize that it may take time and several interim steps to get there.

➤ LU4-3 Infrastructure Timing. We require that the necessary infrastructure and services be in place prior to or concurrently with development.

Housing Element:

▪ Goal H2: Diversity of types of quality housing that are affordable to a range of household income levels, accommodate changing demographics, and support and reinforce the economic sustainability of Ontario.

➤ H2-4 New Model Colony. We support a premier lifestyle community in the New Model Colony distinguished by diverse housing, highest design quality, and cohesive and highly amenitized neighborhoods.

Community Economics Element:

▪ Goal CE1: A complete community that provides for all incomes and stages of life.

➤ CE1-6 Diversity of Housing. We collaborate with residents, housing providers and the development community to provide housing opportunities for every stage of life; we plan for a variety of housing types and price points to support our workforce, attract business and foster a balanced community.

Parks & Recreation Element:

▪ Goal PR1: A system of safe and accessible parks that meets the needs of the community.

➤ PR1-6 Private Parks. We expect development to provide a minimum of 2 acres of developed private park space per 1,000 residents.

➤ PR1-9 Phased Development. We require parks be built in new communities before a significant proportion of residents move in.

Community Design Element:

▪ Goal CD1: A dynamic, progressive city containing distinct neighborhoods and commercial districts that foster a positive sense of identity and belonging among residents, visitors, and businesses.

➤ CD1-1 City Identity. We take actions that are consistent with the City being a leading urban center in Southern California while recognizing the diverse character of our existing viable neighborhoods.

➤ CD1-2 Growth Areas. We require development in growth areas to be distinctive and unique places within which there are cohesive design themes.

➤ CD2-13 Entitlement Process. We work collaboratively with all stakeholders to ensure a high degree of certainty in the efficient review and timely processing of all development plans and permits.

▪ Goal CD5: A sustained level of maintenance and improvement of properties, buildings and infrastructure that protects the property values and encourages additional public and private investments.

➤ CD5-1 Maintenance of Buildings and Property. We require all public and privately owned buildings and property (including trails and easements) to be properly and consistently maintained.

➤ CD5-2 Maintenance of Infrastructure. We require the continual maintenance of infrastructure.

HOUSING ELEMENT COMPLIANCE: The project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and the proposed project is consistent with the number of dwelling units (852) and density (13.9 DU/AC) specified in the Available Land Inventory for the Rich-Haven Specific Plan.

AIRPORT LAND USE COMPATIBILITY PLAN (ALUCP) COMPLIANCE: The project site is located within the Airport Influence Area of the Ontario International Airport (ONT), and has been found to be consistent with the policies and criteria set forth within the ALUCP for ONT.

ENVIRONMENTAL REVIEW: The environmental impacts of this project were previously analyzed in an addendum to the Rich-Haven Specific Plan EIR (SCH# 2006051081) that was adopted by the City Council on March 15, 2016. This application is consistent with the previously adopted addendum and introduces no new significant environmental impacts. All previously adopted mitigation measures shall be a condition of project approval and are incorporated herein by reference

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, RECOMMENDING THE CITY COUNCIL APPROVE A DEVELOPMENT AGREEMENT (FILE NO. PDA16-003) BETWEEN THE CITY OF ONTARIO AND GDIC-RCCD2-L.P., TO ESTABLISH THE TERMS AND CONDITIONS FOR THE DEVELOPMENT OF TENTATIVE PARCEL MAPS 19725 (FILE NO. PMTT16-010) AND 19741 (FILE NO. PMTT16-011) WITHIN THE REGIONAL COMMERCIAL/MIXED USE DISTRICT (PLANNING AREA 8A) OF THE RICH-HAVEN SPECIFIC PLAN, LOCATED ON THE SOUTH SIDE OF ONTARIO RANCH ROAD, BETWEEN MILL CREEK AVENUE AND HAMNER AVENUE, AND MAKING FINDINGS IN SUPPORT THEREOF (APNs:0218-211-12 and 0218-211-25).

WHEREAS, California Government Code Section 65864 now provides, in pertinent part, as follows:

“The Legislature finds and declares that:

(a) The lack of certainty in the approval process of development projects can result in a waste of resources, escalate the cost of housing and other developments to the consumer, and discourage investment in and commitment to comprehensive planning which would make maximum efficient utilization of resources at the least economic cost to the public.

(b) Assurance to the Applicant for a development project that upon approval of the project, the Applicant may proceed with the project in accordance with existing policies, rules and regulations, and subject to conditions of approval, will strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic costs of development.”

WHEREAS, California Government Code Section 65865 provides, in pertinent part, as follows:

“Any city ... may enter into a Development Agreement with any person having a legal or equitable interest in real property for the development of such property as provided in this article ...”

WHEREAS, California Government Code Section 65865.2. provides, in part, as follows:

“A Development Agreement shall specify the duration of the Agreement, the permitted uses of the property, the density of intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes. The Development Agreement may include conditions, terms, restrictions, and requirements for subsequent discretionary actions, provided that such conditions, terms, restrictions, and requirements for discretionary actions shall not prevent development of the land for the uses and to the density of intensity of development set forth in this Agreement ...”

WHEREAS, on April 4, 1995, the City Council of the City of Ontario adopted Resolution No. 95-22 establishing procedures and requirements whereby the City of Ontario may consider Development Agreements; and

WHEREAS, on September 10, 2002, the City Council of the City of Ontario adopted Resolution No. 2002-100 which revised the procedures and requirements whereby the City of Ontario may consider Development Agreements; and

WHEREAS, attached to this resolution, marked Exhibit “A” and incorporated herein by this reference, is the proposed Development Agreement between GDIC-RCCD2-L.P., and the City of Ontario, File No. PDA16-003, concerning those 54.74 acres of land (Tentative Parcel Maps 19725 and 19741) within Planning Area 8A of the Rich-Haven Specific Plan, located on the south side of Ontario Ranch Road, between Mill Creek Avenue and Hamner Avenue and as legally described in the attached Development Agreement. Hereinafter in this Resolution, the Development Agreement is referred to as the “Development Agreement”; and

WHEREAS, on October 23, 2007, the Planning Commission of the City of Ontario conducted a duly noticed public hearing and issued Resolution PC07-125 recommending City Council certification of the Rich-Haven EIR and Issued Resolution PC07-127 recommending to City Council approval of the Rich-Haven Specific Plan (File No. PSP05-004); and

WHEREAS, on December 4, 2007, the City Council of the City of Ontario conducted a duly noticed public hearing and issued Resolution 2007-145 to certified the Rich-Haven Specific Plan EIR (SCH #2006051081); and

WHEREAS, on December 4, 2007, the City Council of the City of Ontario conducted a duly noticed public hearing and adopted Ordinance No. 2884 approving the Rich-Haven Specific Plan; and

WHEREAS, on February 23, 2016, the Planning Commission of the City of Ontario conducted a duly noticed public hearing and issued Resolution PC16-003 recommending City Council adoption of an Addendum to the Rich-Haven EIR and Issued Resolution PC16-004 recommending to City Council approval of the Rich-Haven Specific Plan Amendment (File No. PSPA16-001); and

WHEREAS, on March 15, 2016, the City Council of the City of Ontario conducted a duly noticed public hearing and issued Resolution No. 2016-024 for the adoption of an Addendum (File No. PSPA16-001) to the Rich-Haven Specific Plan EIR; and

WHEREAS, on March 15, 2016, the City Council of the City of Ontario conducted a duly noticed public hearing and issued Resolution No. 2016-025 approving an Amendment (File No. PSPA16-001) to the Rich-Haven Specific Plan; and

WHEREAS, the environmental impacts of this project were previously analyzed in an addendum to the Rich-Haven Specific Plan EIR (SCH# 2006051081) that was adopted by the City Council on March 15, 2016. This application is consistent with the previously adopted addendum and introduces no new significant environmental impacts. All previously adopted mitigation measures shall be a condition of project approval and are incorporated herein by reference; and

WHEREAS, on February 28, 2017, the Planning Commission of the City of Ontario conducted a hearing to consider the Agreement, and concluded said hearing on that date; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, it is hereby found, determined, and resolved by the Planning Commission of the City of Ontario as follows:

SECTION 1. Environmental Determination and Findings. As the recommending body for the Project, the Planning Commission has reviewed and considered the information contained in the previously adopted Rich-Haven Specific Plan EIR (SCH# 2006051081) and supporting documentation. Based upon the facts and information contained in the Rich-Haven Specific Plan EIR (SCH# 2006051081) and supporting documentation, the Planning Commission finds as follows:

a. The previous Rich-Haven Specific Plan EIR (SCH# 2006051081) contains a complete and accurate reporting of the environmental impacts associated with the Project; and

b. The previous Rich-Haven Specific Plan EIR (SCH# 2006051081) was completed in compliance with CEQA and the Guidelines promulgated thereunder; and

c. The previous Rich-Haven Specific Plan EIR (SCH# 2006051081) reflects the independent judgment of the Planning Commission; and

d. All previously adopted mitigation measures, which are applicable to the Project, shall be a condition of Project approval and are incorporated herein by reference.

SECTION 2. Housing Element Consistency. Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as

the recommending body for the Project, the Planning Commission finds that based upon the facts and information contained in the Application and supporting documentation, at the time of Project implementation, the project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and the proposed project is consistent with the number of dwelling units (852) and density (13.9 DU/AC) specified in the Available Land Inventory.

SECTION 3. Airport Land Use Compatibility Plan (ALUCP) Consistency. As the recommending body for the Project, the Planning Commission has reviewed and considered the facts and information contained in the Application and supporting documentation, and finds that, at the time of Project implementation, the Project will be consistent with the policies and criteria set forth within the ONT ALUCP.

SECTION 4. Concluding Facts and Reasons. Based upon substantial evidence presented to the Planning Commission during the above-referenced hearing on February 28, 2017, including written and oral staff reports, together with public testimony, the Planning Commission hereby specifically finds as follows:

a. The Development Agreement applies to 54.74 acres of land (Tentative Parcel Maps 19725 and 19741) within Planning Area 8A of the Rich-Haven Specific Plan, located on the south side of Ontario Ranch Road, between Mill Creek Avenue and Hamner Avenue, and is presently vacant and previously used for dairy and agricultural uses; and

b. The property to the north of the Project Site is within Planning Area 7 (Regional Commercial/Mixed Use) of the Rich-Haven Specific Plan, and is presently vacant and previously used for dairy and agricultural uses. The property to the east is within the City of Eastvale and is presently developed with industrial uses. The property to the south is within Planning Areas 1 and 2 (Row Townhomes/SF Homes) of the Esperanza Specific Plan, and is presently vacant and previously used for dairy and agricultural uses. The property to the west is within the SCE Corridor/Easement of the Rich-Haven Specific Plan, and is developed as an SCE Easement; and

c. The Development Agreement establishes parameters for the development of Tentative Parcel Maps 19725 and 19747 within Planning Area 8A of the Rich-Haven Specific Plan for residential development. The Development Agreement also grants GDIC-RCCD2-L.P. the right to develop, the ability to quantify the fees; and establish the terms and conditions that apply to those projects. These terms and conditions are consistent with The Ontario Plan Policy Plan (General Plan), design guidelines and development standards for the Rich-Haven Specific Plan.

d. The Development Agreement focuses on Tentative Tract Map 19725, which proposes to subdivide 40.10 acres of land into 4 numbered lots and 1 lettered lot, located on southeast corner of Ontario Ranch Road and Mill Creek Avenue within the Regional Commercial/Mixed Use district (Planning Area 8A) of the Rich-Haven

Specific Plan and Tentative Parcel Map 19741 to subdivide 19.64 acres of land into 4 numbered lots, located at the southwest corner of Ontario Ranch Road and Hamner Avenue within the Regional Commercial/Mixed Use district (Planning Area 8A) of the Rich-Haven Specific Plan; and

e. The Development Agreement will provide for the development of up to 852 residential units and 325,000 square feet of commercial/office uses as established for Planning Area 8A of the Rich-Haven Specific Plan; and

f. The Development Agreement has been prepared in conformance with the goals and policies of The Ontario Plan Policy Plan (General Plan); and

g. The Development Agreement does not conflict with the Land Use Policies of The Ontario Plan Policy Plan (General Plan) and will provide for development, within the district, in a manner consistent with the Policy Plan and with related development; and

h. This Development Agreement will promote the goals and objectives of the Land Use Element of the Policy Plan; and

i. This Development Agreement will not be materially injurious or detrimental to the adjacent properties and will have a significant impact on the environment or the surrounding properties. The environmental impacts of this project were previously reviewed in conjunction with the Rich-Haven Specific Plan Amendment (PSPA16-001), for which an addendum to the Rich-Haven Specific Plan EIR (SCH# 2006051081) was adopted by the City Council on March 15, 2016. The application introduces no new significant environmental impacts. All previously adopted mitigation measures are a condition of project approval and are incorporated herein by reference.

SECTION 5. Planning Commission Action. Based upon the findings and conclusions set forth in paragraphs 1, 2, 3 and 4 above, the Planning Commission hereby RECOMMENDS APPROVAL of the Development Agreement to the City Council subject to each and every condition set forth in the Rich-Haven Specific Plan and EIR, incorporated by this reference.

SECTION 6. Indemnification. The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

SECTION 7. Custodian of Records. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 8. *Certification to Adoption.* The Secretary shall certify to the adoption of the Resolution.

The Secretary Pro Tempore for the Planning Commission of the City of Ontario shall certify as to the adoption of this Resolution.

I hereby certify that the foregoing Resolution was duly and regularly introduced, passed and adopted by the Planning Commission of the City of Ontario at a regular meeting thereof held on the 28th day of February 2017, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.

Jim Willoughby
Planning Commission Chairman

ATTEST:

Scott Murphy
Planning Director/Secretary of Planning
Commission

Planning Commission Resolution
File No. PDA16-003
February 28, 2017
Page 7

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, Marci Callejo, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC17-[insert #] was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on February 28, 2017, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marci Callejo
Secretary Pro Tempore

Exhibit "A"
Development Agreement

**RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:**

City of Ontario
303 East "B" Street
Ontario California, California 91764
Attn: City Clerk

Exempt from Fees Per Gov. Code § 6301

Space above this line for Recorder's Use Only

DEVELOPMENT AGREEMENT (File No. PDA16-003)

By and Between

City of Ontario, a California municipal corporation,

and

GDCI-RCCD 2, LP

a Delaware limited partnership

_____, 2017

San Bernardino County, California

DEVELOPMENT AGREEMENT NO. ____

This Development Agreement (hereinafter "Agreement") is entered into effective as of the ____ day of _____, 2017 by and among the City of Ontario, a California municipal corporation (hereinafter "CITY"), and GDCI-RCCD 2, LP, a Delaware limited partnership company (hereinafter "OWNER"):

RECITALS

WHEREAS, CITY is authorized to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property, pursuant to Section 65864, et seq. of the Government Code; and

WHEREAS, OWNER has requested CITY to enter into a development agreement and proceedings have been taken in accordance with the rules and regulations of CITY; and

WHEREAS, by electing to enter into this Agreement, CITY shall bind future City Councils of CITY by the obligations specified herein and limit the future exercise of certain governmental and proprietary powers of CITY; and

WHEREAS, the terms and conditions of this Agreement have undergone extensive review by CITY and the City Council and have been found to be fair, just and reasonable; and

WHEREAS, the best interests of the citizens of the CITY and the public health, safety and welfare will be served by entering into this Agreement; and

WHEREAS, all of the procedures of the California Environmental Quality Act have been met with respect to the Project and the Agreement in that Rich Haven Specific Plan Environmental Impact Report and all addendums (the "EIR"). The City Council found and determined that the EIR was prepared in accordance with the requirements of the California Environmental Quality Act and adequately describes the impacts of the project described in the EIR, which included consideration of this Agreement; and

WHEREAS, this Agreement and the Project are consistent with the CITY's Comprehensive General Plan and the Rich Haven Specific Plan; and

WHEREAS, all actions taken and approvals given by CITY have been duly taken or approved in accordance with all applicable legal requirements for notice, public hearings, findings, votes, and other procedural matters; and

WHEREAS, development of the Property in accordance with this Agreement will provide substantial benefits to CITY and will further important policies and goals of CITY; and

WHEREAS, this Agreement will eliminate uncertainty in planning and provide for the orderly development of the Property, ensure progressive installation of necessary improvements, provide for public services appropriate to the development of the Project, and generally serve the purposes for which development agreements under Sections 65864 et seq. of the Government Code are intended; and

WHEREAS, OWNER has incurred and will in the future incur substantial costs in order to assure development of the Property in accordance with this Agreement; and

WHEREAS, OWNER has incurred and will in the future incur substantial costs in excess of the generally applicable requirements in order to assure vesting of legal rights to develop the Property in accordance with this Agreement.

COVENANTS

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. DEFINITIONS AND EXHIBITS.

1.1 Definitions. The following terms when used in this Agreement shall be defined as follows:

1.1.1 "Agreement" means this Development Agreement.

1.1.2 "CITY" means the City of Ontario, California, a California municipal corporation.

1.1.3 "Construction Agreement" means that certain Agreement for the Financing and Construction of Phases I and II Infrastructure Improvements to Serve an Easterly Portion of the New Model Colony, entered into between the CITY and NMC Builders as of the 4th day of October, 2005, and all amendments thereto and "Construction Agreement Amendment" means that First Amended and Restated Agreement for the Financing and Construction of Limited Infrastructure Improvements to Serve and Easterly Portion of the New Model Colony entered into between the CITY and NMC Builders as of the 21st day of August 2012.

1.1.4 "Development" means the improvement of the Property for the purposes of completing the structures, improvements and facilities comprising the Project including, but not limited to: grading; the construction of public infrastructure and public facilities related to the Project whether located within or outside the Property; the construction of buildings and structures; and the installation of landscaping. "Development" does not include the maintenance, repair, reconstruction or redevelopment of any building, structure, improvement or facility after the construction and completion thereof.

1.1.5 "Development Approvals" means all permits and other entitlements for use subject to approval or issuance by CITY in connection with development of the Property including, but not limited to:

- (a) specific plans and specific plan amendments;
- (b) tentative and final subdivision and parcel maps;
- (c) development plan review;
- (d) conditional use permits (including model home use permits), public use permits and plot plans;
- (e) zoning;
- (f) grading and building permits.

1.1.6 "Development Exaction" means any requirement of CITY in connection with or pursuant to any Land Use Regulation or Development Approval for the dedication of land, the construction of improvements or public facilities, or the payment of fees in order to lessen, offset, mitigate or compensate for the impacts of development on the environment or other public interests.

1.1.7 "Development Impact Fee" means a monetary exaction, other than a tax or special assessment, whether characterized as a fee or a tax and whether established for a broad class of projects by legislation of general applicability or imposed on a specific project on an ad hoc basis, that is charged by a local agency to the applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of public facilities related to the development project, and, for purposes of this Agreement only, includes fees collected under development agreements adopted pursuant to Article 2.5 of the Government Code (commencing with Section 65864) of Chapter 4, For purposes of this Agreement only, "Development Impact Fee" shall not include processing fees and charges imposed by CITY to cover the estimated actual costs to CITY of processing applications for Development Approvals or for monitoring compliance with any Development Approvals granted or issued, including, without limitation, fees for zoning variances; zoning changes; use permits; building inspections; building permits; filing and processing applications and petitions filed with the local agency formation commission or conducting preliminary proceedings or proceedings under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Division 3 (commencing with Section 56000) of Title 5 of the Government Code; the processing of maps under the provisions of the Subdivision Map Act, Division 2 (commencing with Section 66410) of Title 7 of the Government Code; or planning services under the authority of Chapter 3 (commencing with Section 65100) of Division 1 of Title 7 of the Government Code, fees and charges as described in Sections 51287, 56383, 57004, 65104, 65456, 65863.7, 65909.5, 66013, 66014, and 66451.2 of the

Government Code, Sections 17951, 19132.3, and 19852 of the Health and Safety Code, Section 41901 of the Public Resources Code, and Section 21671.5 of the Public Utilities Code, as such codes may be amended or superseded, including by amendment or replacement.

1.1.8 “Development Plan” means the Existing Development Approvals and the Existing Land Use Regulations applicable to development of the Property.

1.1.9 “Effective Date” means the date that the ordinance approving this Agreement goes into effect.

1.1.10 “Existing Development Approvals” means all development approvals approved or issued prior to the Effective Date. Existing Development Approvals includes the approvals incorporated herein as Exhibit “C” and all other approvals which are a matter of public record on the Effective Date.

1.1.11 “Existing Land Use Regulations” means all Land Use Regulations in effect on the Effective Date. Existing Land Use Regulations includes the regulations incorporated herein as Exhibit “D” and all other land use regulations that are in effect and a matter of public record on the Effective Date.

1.1.12 “Improvement” or “Improvements” means those public improvements required to support the development of the Project as described in the Parcel Map conditions for Parcel Map Nos. 19725 and 19741 and as further described in Exhibit “F” (the “Infrastructure Improvements Exhibit”).

1.1.13 “Land Use Regulations” means all ordinances, resolutions, codes, rules, regulations and official policies of CITY governing the development and use of land, including, without limitation, the permitted use of land, the density or intensity of use, subdivision requirements, timing and phasing of development, the maximum height and size of buildings, the provisions for reservation or dedication of land for public purposes, and the design, improvement and construction standards and specifications applicable to the development of the Property. “Land Use Regulations” does not include any CITY ordinance, resolution, code, rule, regulation or official policy, governing:

- (a) the conduct of businesses, professions, and occupations;
- (b) taxes and assessments;
- (c) the control and abatement of nuisances;
- (d) the granting of encroachment permits and the conveyance of similar rights and interests that provide for the use of or the entry upon public property;
- (e) the exercise of the power of eminent domain.

1.1.14 "Mortgagee" means a mortgagee of a mortgage, a beneficiary under a deed of trust or any other security-device lender, and their successors and assigns.

1.1.15 "General Plan" means the General Plan adopted on January 27, 2010.

1.1.16 "Model Units" means a maximum of Twenty-eight (28) residential units constructed by OWNER prior to the construction of any Production units and not offered for sale and occupancy for a period of time after the issuance of permits for Production Units.

1.1.17 "Non-Residential Units" means the non-residential buildings constructed by OWNER on the Property.

1.1.18 "OWNER" means the persons and entities listed as owner on page 1 of this Agreement and their permitted successors in interest to all or any part of the Property.

1.1.19 "Production Unit(s)" means all residential units constructed for sale and occupancy by OWNER and excludes a specified number of Model Units constructed by OWNER for promotion of sales.

1.1.20 "Project" means the development of the Property contemplated by the Development Plan, as such Plan may be further defined, enhanced or modified pursuant to the provisions of this Agreement.

1.1.21 "Property" means the real property described on Exhibit "A" and shown on Exhibit "B" to this Agreement.

1.1.22 "Reservations of Authority" means the rights and authority excepted from the assurances and rights provided to OWNER under this Agreement and reserved to CITY under Section 3.6 of this Agreement.

1.1.23 "Specific Plan" means that certain specific plan adopted by the City Council, and entitled, "Rich Haven Specific Plan."

1.1.24 "Storm Water Treatment Capacity Availability" means a designated portion of the total Storm Water Treatment Capacity Availability made available through the completion of construction of a Phase of regional storm water treatment facilities by the NMC Builders LLC as described in the Construction Agreement Amendment. The amount, in acres, of Storm Water Treatment Capacity Availability required for the issuance of a grading permit shall be based upon the factors and assumptions listed in the Construction Agreement Amendment.

1.1.25 "Subsequent Development Approvals" means all Development Approvals required subsequent to the Effective Date in connection with development of the Property.

1.1.25 “Subsequent Land Use Regulations” means any Land Use Regulations adopted and effective after the Effective Date of this Agreement.

1.1.26 “Water Availability Equivalent (WAE)” means a designated portion of the total Net MDD made available through the construction of each Phase described in the Water Phasing Plan of the Construction Agreement. The number of Water Availability Equivalents (of portions thereof) required for the approval of a final Parcel or Tract Map shall be based upon water demand factors and assumptions listed in the Construction Agreement and Construction Agreement Amendment as “Water Availability Equivalents by Land Use” for each land use category.

1.2 Exhibits. The following documents are attached to, and by this reference made a part of, this Agreement:

Exhibit “A” — Legal Description of the Property.

Exhibit “B” — Map showing Property and its location.

Exhibit “C” — Existing Development Approvals.

Exhibit “D” — Existing Land Use Regulations.

Exhibit “E” — Conceptual Phasing Plan

Exhibit “F-1” — Infrastructure Improvements Exhibit for Parcel Map No. 19725

Exhibit “F-2” - Infrastructure Improvement Exhibit for Parcel Map No. 19741

2. GENERAL PROVISIONS.

2.1 Binding Effect of Agreement. The Property is hereby made subject to this Agreement. Development of the Property is hereby authorized and shall be carried out only in accordance with the terms of this Agreement.

2.2 Ownership of Property. OWNER represents and covenants that it is the owner of the fee simple title to the Property or a portion thereof, or has the right to acquire fee simple title to the Property or a portion thereof from the current owner(s) thereof. To the extent OWNER does not own fee simple title to the Property, OWNER shall obtain written consent from the current fee owner of the Property agreeing to the terms of this Agreement and the recordation thereof.

2.3 Term. The term of this Agreement shall commence on the Effective Date and shall continue for an initial term of ten (10) years thereafter unless this term is modified or extended pursuant to the provisions of this Agreement. The term of this Agreement may be extended for an additional five (5) years following expiration of the initial ten (10) year term, provided the following have occurred:

(a) OWNER provides at least 180 days written notice to CITY prior to expiration of the initial term; and

(b) In non-mixed use projects, the OWNER shall have obtained, as applicable, building permits for at least forty percent (40%) of the actual number of residential units permitted under this Agreement; and in mixed use areas of projects, the OWNER shall have obtained, as applicable, building permits for at least forty (40%) percent of the non-residential floor area permitted under this Agreement and at least forty (40%) percent of the actual number of residential units permitted under this Agreement; and

(c) OWNER is not then in uncured default of this Agreement.

2.4 Assignment.

2.4.1 Right to Assign. OWNER shall have the right to sell, transfer or assign the Property in whole or in part (provided that no such partial transfer shall violate the Subdivision Map Act, Government Code Section 66410, et seq.), to any person, partnership, limited liability company, joint venture, firm or corporation at any time during the term of this Agreement; provided, however, that any such sale, transfer or assignment shall include the assignment and assumption of the rights, duties and obligations arising under or from this Agreement and be made in strict compliance with the following:

(a) No sale, transfer or assignment of any right or interest under this Agreement shall be made unless made together with the sale, transfer or assignment of all or a part of the Property.

(b) Concurrent with any such sale, transfer or assignment, or within fifteen (15) business days thereafter, OWNER shall notify CITY's City Manager, in writing, of such sale, transfer or assignment and shall provide CITY with: (1) an executed agreement, in a form reasonably acceptable to CITY, by the purchaser, transferee or assignee and providing therein that the purchaser, transferee or assignee expressly and unconditionally assumes all the duties and obligations of OWNER under this Agreement with respect to the portion of the Property so sold, transferred or assigned; and (2) the payment of the applicable processing charge to cover the CITY's review and consideration of such sale, transfer or assignment.

(c) Any sale, transfer or assignment not made in strict compliance with the foregoing conditions shall constitute a default by OWNER under this Agreement. Notwithstanding the failure of any purchaser, transferee or assignee to execute the agreement required by Paragraph (b) of this Subsection 2.4.1, the burdens of this Agreement shall be binding upon such purchaser, transferee or assignee, but the benefits of this Agreement shall not inure to such purchaser, transferee or assignee until and unless such agreement is executed. The City Manager shall have the authority to

review, consider and either approve, conditionally approve, or deny any proposed sale, transfer or assignment that is not made in compliance with this section 2.4.

2.4.2 Release of Transferring Owner. Notwithstanding any sale, transfer or assignment, a transferring OWNER shall continue to be obligated under this Agreement unless such transferring owner is given a release in writing by CITY, which release shall be provided by CITY upon the full satisfaction by such transferring owner of the following conditions:

- (a) OWNER no longer has a legal or equitable interest in all or any part of the portion of the Property sold, transferred or assigned.
- (b) OWNER is not then in default under this Agreement.
- (c) OWNER has provided CITY with the notice and executed agreement required under Paragraph (b) of Subsection 2.4.1 above.
- (d) The purchaser, transferee or assignee provides CITY with security equivalent to any security previously provided by OWNER to secure performance of its obligations hereunder.

2.4.3 Effect of Assignment and Release of Obligations. In the event of a sale, transfer or assignment pursuant to the provisions of Section 2.4.2 above:

- (a) The assignee shall be liable for the performance of all obligations of OWNER with respect to transferred property, but shall have no obligations with respect to the portions of the Property, if any, not transferred (the "Retained Property").
- (b) The owner of the Retained Property shall be liable for the performance of all obligations of OWNER with respect to Retained Property, but shall have no further obligations with respect to the transferred property.
- (c) The assignee's exercise, use and enjoyment of the Property or portion thereof shall be subject to the terms of this Agreement to the same extent as if the assignee were the OWNER.

2.4.4 Subsequent Assignment. Any subsequent sale, transfer or assignment after an initial sale, transfer or assignment shall be made only in accordance with and subject to the terms and conditions of this Section 2.4.

2.4.5 Termination of Agreement With Respect to Individual Lots Upon Sale to Public and Completion of Construction. The provisions of Subsection 2.4.1 shall not apply to the sale or lease (for a period longer than one year) of any lot which has been finally subdivided and is individually (and not in "bulk") sold or leased to

a member of the public or other ultimate user. Notwithstanding any other provisions of this Agreement, this Agreement shall terminate with respect to any lot and such lot shall be released and no longer be subject to this Agreement without the execution or recordation of any further document upon satisfaction of both of the following conditions:

- (a) The lot has been finally subdivided and individually (and not in “bulk”) sold or leased (for a period longer than one year) to a member of the public or other ultimate user; and,
- (b) A certificate of occupancy has been issued for a building on the lot, and the fees set forth under Section 4 of this Agreement have been paid.

2.5 Amendment or Cancellation of Agreement. This Agreement may be amended or cancelled in whole or in part only in the manner provided for in Government Code Section 65868.1. Any amendment of this Agreement, which amendment has been requested by OWNER, shall be considered by the CITY only upon the payment of the applicable processing charge. This provision shall not limit any remedy of CITY or OWNER as provided by this Agreement. Either Party or successor in interest, may propose an amendment to or cancellation, in whole or in part, of this Agreement. Any amendment or cancellation shall be by mutual consent of the parties or their successors in interest except as provided otherwise in this Agreement or in Government Code Section 65865.1. For purposes of this section, the term “successor in interest” shall mean any person having a legal or equitable interest in the whole of the Property, or any portion thereof as to which such person wishes to amend or cancel this Agreement. The procedure for proposing and adopting an amendment to, or cancellation of, in whole or in part, this Agreement shall be the same as the procedure for adopting and entering into this Agreement in the first instance. Notwithstanding the foregoing sentence, if the CITY initiates the proposed amendment to, or cancellation of, in whole or in part, this Agreement, CITY shall first give notice to the OWNER of its intention to initiate such proceedings at least sixty (60) days in advance of the giving the public notice of intention to consider the amendment or cancellation.

2.5.1 Amendment To Reflect Consistency With Future Amendments to the Construction Agreement. To the extent any future amendment to the Construction Agreement provides for modifications to rights or obligations that differ from or alter the same or similar rights or obligations contained in this Development Agreement, OWNER reserves the right to request an amendment to the Development Agreement to reflect any or all of such modifications.

2.6 Termination. This Agreement shall be deemed terminated and of no further effect upon the occurrence of any of the following events:

- (a) Expiration of the stated term of this Agreement as set forth in Section 2.3.

- (b) Entry of a final judgment setting aside, voiding or annulling the adoption of the ordinance approving this Agreement.
- (c) The adoption of a referendum measure overriding or repealing the ordinance approving this Agreement.
- (d) Completion of the Project in accordance with the terms of this Agreement including issuance of all required occupancy permits and acceptance by CITY or applicable public agency of all required dedications.

Termination of this Agreement shall not constitute termination of any other land use entitlements approved for the Property. Upon the termination of this Agreement, no party shall have any further right or obligation hereunder except with respect to any obligation to have been performed prior to such termination or with respect to any default in the performance of the provisions of this Agreement which has occurred prior to such termination or with respect to any obligations which are specifically set forth as surviving this Agreement.

2.7 Notices.

- (a) As used in this Agreement, “notice” includes, but is not limited to, the communication of notice, request, demand, approval, statement, report, acceptance, consent, waiver, appointment or other communication required or permitted hereunder.
- (b) All notices shall be in writing and shall be considered given either: (i) when delivered in person, including, without limitation, by courier, to the recipient named below; or (ii) on the date of delivery shown on the return receipt, after deposit in the United States mail in a sealed envelope as either registered or certified mail with return receipt requested, and postage and postal charges prepaid, and addressed to the recipient named below. All notices shall be addressed as follows:

If to CITY:

Al Boling, City Manager
City of Ontario
303 East “B” Street
Ontario California, California 91764

with a copy to:

John Brown, City Attorney
Best Best & Krieger
2855 East Guasti Road, Suite 400
Ontario CA 91761

If to OWNER:

GDCI-RCCD 2, LP
a Delaware limited partnership
11943 El Camino Real, Suite 210
San Diego CA 92130

Attn: Gina Papandrea

and:

RCCD Inc.
8101 East Kaiser Blvd. Suite 140
Anaheim Hills, CA 92808

Attn: Richard Cisakowski
Phone: (714) 637-4405

- (c) Either party may, by notice given at any time, require subsequent notices to be given to another person or entity, whether a party or an officer or representative of a party, or to a different address, or both. Notices given before actual receipt of notice of change shall not be invalidated by the change.

3. DEVELOPMENT OF THE PROPERTY.

3.1 Rights to Develop. Subject to the terms of this Agreement including the Reservations of Authority, OWNER shall have a vested right to develop the Property in accordance with, and to the extent of, the Development Plan. The Project shall remain subject to all Subsequent Development Approvals required to complete the Project as contemplated by the Development Plan. Except as otherwise provided in this Agreement, the permitted uses of the Property, the density and intensity of use, the maximum height and size of proposed buildings, and provisions for reservation and dedication of land for public purposes shall be those set forth in the Development Plan.

3.2 Effect of Agreement on Land Use Regulations. Except as otherwise provided under the terms of this Agreement including the Reservations of Authority, the rules, regulations and official policies governing permitted uses of the Property, the density and intensity of use of the Property, the maximum height and size of proposed buildings, and the design, improvement and construction standards and specifications applicable to development of the Property shall be the Existing Land Use Regulations.

In connection with any Subsequent Development Approval, CITY shall exercise discretion in accordance with the same manner as it exercises its discretion under its police powers, including the Reservations of Authority set forth herein; provided however, that such discretion shall not prevent development of the Property for the uses and to the density or intensity of development set forth in this Agreement.

3.3 Timing of Development. The parties acknowledge that OWNER cannot at this time predict when or the rate at which portions of the Property will be developed. Such decisions depend upon numerous factors which are not within the control of OWNER, such as market orientation and demand, interest rates, absorption, completion and other similar factors. Since the California Supreme Court held in Pardee Construction Co. v. City of Camarillo (1984) 37 Ca1. 3d 465, that the failure of the parties therein to provide for the timing of development resulted in a later adopted initiative restricting the timing of development to prevail over such parties' agreement, it is the parties' intent to cure that deficiency by acknowledging and providing that OWNER shall have the right to develop the Property, or portions of the Property, in such order and at such rate and at such times as OWNER deems appropriate within the exercise of its subjective business judgment.

3.4 Conceptual Phasing Plan. Development of the Property is contingent in part on the phasing of infrastructure improvements over which the OWNER has control. Attached hereto as Exhibit "E" is a conceptual phasing plan which is based on the OWNER's best estimate of the timing of the completion of needed infrastructure improvements. The conceptual phasing plan is an estimate only and is subject to the same timing constraints and the exercise of OWNER's business judgment as set forth in Section 3.3 above. OWNER and CITY agree that the development of any one of the Parcels in Parcel Map 19725 may be developed prior to, concurrent with, or after the development of any one of the Parcels in Parcel Map 19741, subject to completion of the infrastructure improvements required for the respective Parcel Map as described in Section 3.7, and in Exhibit F-1 for Parcels within the boundaries of Tract No. 19725 or Exhibit F-2 for Parcels within the boundaries of Tract 19741.

3.4.1 Attached hereto as Exhibit "F-1" is a description of the Infrastructure Improvements required for the development of the portion of the Property included in Parcel Map No. 19725. Also, attached hereto as Exhibit "F-2" is a description of the Infrastructure Improvements required for the development of the portion of the Property included in Parcel Map No. 19741 ("collectively the Infrastructure Improvement Exhibits").

3.5 Changes and Amendments. The parties acknowledge that refinement and further development of the Project will require Subsequent Development Approvals and may demonstrate that changes are appropriate and mutually desirable in the Existing Development Approvals. In the event OWNER finds that a change in the Existing Development Approvals is necessary or appropriate, OWNER shall apply for a Subsequent Development Approval to effectuate such change and CITY shall process and act on such application in accordance with the Existing Land Use Regulations, except as otherwise provided by this Agreement including the Reservations of Authority.

If approved, any such change in the Existing Development Approvals shall be incorporated herein as an addendum to Exhibit "C", and may be further changed from time to time as provided in this Section. Unless otherwise required by law, as determined in CITY's reasonable discretion, a change to the Existing Development Approvals shall be deemed "minor" and not require an amendment to this Agreement provided such change does not:

- (a) Alter the permitted uses of the Property as a whole; or,
- (b) Increase the density or intensity of use of the Property as a whole; or,
- (c) Increase the maximum height and size of permitted buildings; or,
- (d) Delete a requirement for the reservation or dedication of land for public purposes within the Property as a whole; or,
- (e) Constitute a project requiring a subsequent or supplemental environmental impact report pursuant to Section 21166 of the Public Resources Code.

3.6 Reservations of Authority.

3.6.1 Limitations, Reservations and Exceptions. Notwithstanding any other provision of this Agreement, the CITY shall not be prevented from applying new rules, regulations and policies upon the OWNER, nor shall a development agreement prevent the CITY from denying or conditionally approving any subsequent development project application on the basis of such new rules, regulations and policies where the new rules, regulations and policies consist of the following:

- (a) Processing fees by CITY to cover costs of processing applications for development approvals or for monitoring compliance with any development approvals;
- (b) Procedural regulations relating to hearing bodies, petitions, applications, notices, findings, records and any other matter of procedure;
- (c) Regulations, policies and rules governing engineering and construction standards and specifications applicable to public and private improvements, including all uniform codes adopted by the CITY and any local amendments to those codes adopted by the CITY; provided however that, OWNER shall have a vested right to develop the Property in accordance with, and to the extent of, the standards and specifications that are expressly identified in the Specific Plan;

- (d) Regulations that may conflict with this Agreement and the Development Plan but that are reasonably necessary to protect the residents of the project and/or of the immediate community from a condition perilous to their health or safety;
- (e) Regulations that do not conflict with those rules, regulations and policies set forth in this Agreement or the Development Plan;
- (f) Regulations that may conflict but to which the OWNER consents.

3.6.2 Subsequent Development Approvals. This Agreement shall not prevent CITY, in acting on Subsequent Development Approvals, from applying Subsequent Land Use Regulations that do not conflict with the Development Plan, nor shall this Agreement prevent CITY from denying or conditionally approving any Subsequent Development Approval on the basis of the Existing Land Use Regulations or any Subsequent Land Use Regulation not in conflict with the Development Plan.

3.6.3 Modification or Suspension by State or Federal Law. In the event that State or Federal laws or regulations, enacted after the Effective Date of this Agreement, prevent or preclude compliance with one or more of the provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such State or Federal laws or regulations, provided, however, that this Agreement shall remain in full force and effect to the extent it is not inconsistent with such laws or regulations and to the extent such laws or regulations do not render such remaining provisions impractical to enforce. In the event OWNER alleges that such State or Federal laws or regulations preclude or prevent compliance with one or more provisions of this Agreement, and the CITY does not agree, the OWNER may, at its sole cost and expense, seek declaratory relief (or other similar non-monetary remedies); provided however, that nothing contained in this Section 3.6.3 shall impose on CITY any monetary liability for contesting such declaratory relief (or other similar non-monetary relief).

3.6.4 Intent. The parties acknowledge and agree that CITY is restricted in its authority to limit its police power by contract and that the foregoing limitations, reservations and exceptions are intended to reserve to CITY all of its police power which cannot be so limited. This Agreement shall be construed, contrary to its stated terms if necessary, to reserve to CITY all such power and authority which cannot be restricted by contract.

3.7 Public Infrastructure and Utilities. OWNER is required by this Agreement to construct any public works facilities which will be dedicated to CITY or any other public agency upon completion, and if required by applicable laws to do so, OWNER shall perform such work in the same manner and subject to the same requirements as would be applicable to CITY or such other public agency should it have undertaken such construction. As a condition of development approval of the portion of the Property

covered by Parcel Map No. 19725, OWNER shall connect the portion of the Project covered by Parcel Map No. 19725 to all utilities necessary to provide adequate water, recycled water, sewer, storm drain, fiber optic communications, gas, electric, and other utility service to the portion of the Project covered by Parcel Map No. 19725. Also, as a condition of development approval OWNER shall connect the portion of the Project covered by Parcel Map No. 19741 to all utilities, necessary to provide adequate water, recycled water, sewer, storm drain, fiber optic communications, gas, electric, and other utility service to the portion of the Project covered by Parcel Map No. 19741. OWNER and CITY agree that the development of any one of the Parcels in Parcel Map 19725 may be developed prior to, concurrent with, or after the development of any one of the Parcels in Parcel Map 19741, subject to completion of the infrastructure improvements required for the respective Parcel Map as described in the attached Exhibit F-1 for Parcels within the boundaries of Tract No. 19725 or the attached Exhibit F-2 for Parcels within the boundaries of Tract 19741.

As a further condition of development approval for the Project, OWNER shall contract with the CITY for CITY-owned or operated utilities for this purpose, for such price and on such terms as may be available to similarly situated customers in the CITY.

- 3.7.1 OWNER agrees that development of the portion of the Project within the boundaries of Parcel Map No. 19725 shall require the construction, at OWNER's sole cost and expense or as a participating member of a cooperative construction agreement, of Storm Drain facilities in Ontario Ranch Road and Mill Creek Avenues from the Property to the connection with the County Line Channel as described in the attached Exhibit F-1.
- 3.7.2 OWNER agrees that development of the portion of the Project within the boundaries of Parcel Map No. 19741 shall require the construction, at OWNER's sole cost and expense, of Storm Drain facilities in Hamner Avenue from the Property to the connection with existing Storm Drain facilities constructed by others in Hamner Avenue as described in the attached Exhibit F-2.
- 3.7.3 OWNER agrees that development of the portion of the Project within the boundaries of Parcel Map No. 19725 shall require the construction, at OWNER's sole cost and expense, of street improvements on Ontario Ranch Road including two signalized intersections on Ontario Ranch Road and as further described in the attached Exhibit F-1.
- 3.7.4. OWNER agrees that development of the portion of the Project within the boundaries of Parcel Map No. 19741 shall require the construction, at OWNER's sole cost and expense, of street improvements on Ontario Ranch Road and Hamner Avenue including one signalized intersection on Ontario Ranch Road and Hamner Avenue and as further described in the attached Exhibit F-2.
- 3.7.5 OWNER agrees that development of the portion of the Property within the boundaries of Parcel Map No. 19725 shall require the extension of permanent master planned water and recycled water utility infrastructure, at OWNER's sole

cost and expense, as described in Exhibit F-1 consisting generally of the construction of the extension of permanent master planned water and recycled water utility infrastructure to serve the portion of the Property within the boundaries of Parcel Map No. 19725. OWNER agrees that no building permits shall be issued by CITY for Non-Residential Buildings or Production Units within the boundaries of Tract 19725 prior to completion of the water and recycled water Improvements as described in Exhibit F-1. OWNER also agrees that recycled water shall be available and utilized by OWNER for all construction-related water uses including prior to, and during, any grading of the Property.

3.7.6 OWNER agrees that development of the portion of the Property within the boundaries of Parcel Map No. 19741 shall require the extension of permanent master planned water and recycled water utility infrastructure, at OWNER's sole cost and expense, as described in Exhibit F-2 consisting generally of the construction of the extension of permanent master planned water and recycled water utility infrastructure to serve the portion of the Property within the boundaries of Parcel Map No. 19741. OWNER agrees that no building permits shall be issued by CITY for Non-Residential Buildings or Production Units within the boundaries of Tract 19741 prior to completion of the water and recycled water Improvements as described in Exhibit F-2. OWNER also agrees that recycled water shall be available and utilized by OWNER for all construction-related water uses including prior to, and during, any grading of the Property.

3.7.7 OWNER agrees that NMC Builders shall be responsible for funding a portion of the design and construction of an additional extension of master planned recycled water infrastructure in Riverside and Haven Avenues to be constructed by CITY. These master planned recycled water Improvements shall also serve the Project. OWNER shall deposit, or shall have deposited, with NMC Builders an amount equal to the OWNER's capital contribution for the design and construction of the NMC Builders portion of the recycled water improvements in Riverside and Haven Avenues known as the "Phase 2 Recycled Water Improvements" within 30 days after CITY requests such funds from NMC Builders. If OWNER has not deposited such amount, with NMC Builders within 30 days after CITY requests such funds from NMC Builders then CITY shall be entitled to withhold issuance of any further permits for the Project (whether discretionary or ministerial) unless and until OWNER deposits the amount of OWNER's capital contribution with NMC Builders for the design and construction of the NMC Builders portion of the Phase 2 Recycled Water System Improvements.

3.7.8 OWNER agrees that development of the Property shall require the extension of permanent master planned sewer infrastructure, at OWNER's sole cost and expense or as a participating member in a cooperative construction agreement, as described in the attached Exhibit F-1 and F-2 consisting generally of the construction of the extension of sewer infrastructure in Mill Creek Avenue and Bellegrave Avenue to serve the Property and as further described in the attached Exhibits F-1 and F-2.

3.7.9 OWNER agrees that development of the portion of the Property within the boundaries of Parcel Map 19725 shall require the extension of permanent master planned fiber optic communications infrastructure, at OWNER's sole cost and expense, as described in the attached Exhibit F-1 consisting generally of the construction of the extension of fiber optic communications infrastructure to serve the portion of the Property within the boundaries of Parcel Map 19725.

3.7.10 OWNER agrees that development of the portion of the Property within the boundaries of Parcel Map 19741 shall require the extension of permanent master planned fiber optic communications infrastructure, at OWNER's sole cost and expense, as described in the attached Exhibit F-2 consisting generally of the construction of the extension of fiber optic communications infrastructure to serve the portion of the Property within the boundaries of Parcel Map 19741.

3.8 Acquisition of Offsite Provision of Real Property Interests. In any instance where OWNER is required by any Development Approval or Land Use Regulation and the Construction Agreement to construct any public improvement on land not owned by OWNER ("Offsite Improvements"), the CITY and OWNER shall cooperate in acquiring the necessary legal interest ("Offsite Property") in accordance with the procedures set forth in Section 2.4 of the Construction Agreement. This section 3.8 is not intended by the parties to impose upon the OWNER an enforceable duty to acquire land or construct any public improvements on land not owned by OWNER, except to the extent that the OWNER elects to proceed with the development of the Project, and then only in accordance with valid conditions imposed by the CITY upon the development of the Project under the Subdivision Map Act or other legal authority.

3.8.1 CITY Acquisition of Non-Construction Agreement Offsite Property. In the event OWNER is required to construct any public improvements on land not owned by OWNER, but such requirement is not based upon the Construction Agreement, Sections 3.8.1 and 3.8.2 shall control the acquisition of the necessary property interest(s) ("Non-Construction Agreement Offsite Property"). If the OWNER is unable to acquire such Non-Construction Agreement Offsite Property, and following the written request from the OWNER to CITY, CITY agrees to use reasonable and diligent good faith efforts to acquire the Non-Construction Agreement Offsite Property from the owner or owners of record by negotiation to the extent permitted by law and consistent with this Agreement. If CITY is unable to acquire the Non-Construction Agreement Offsite Property by negotiation within thirty (30) days after OWNER'S written request, CITY shall, initiate proceedings utilizing its power of eminent domain to acquire that Non-Construction Agreement Subject Property at a public hearing noticed and conducted in accordance with California Code of Civil Procedure Section 1245.235 for the purpose of considering the adoption of a resolution of necessity concerning the Non-Construction Agreement Offsite Property, subject to the conditions set forth in this Section 3.8. The CITY and OWNER acknowledge that the timelines set forth in this Section 3.8.1 represent the maximum time periods which CITY and OWNER reasonably believe will be necessary to complete the acquisition of any Non-Construction Agreement Offsite Property. CITY agrees to use reasonable

good faith efforts to complete the actions described within lesser time periods, to the extent that it is reasonably able to do so, consistent with the legal constraints imposed upon CITY.

3.8.2 Owner's Option to Terminate Proceedings. CITY shall provide written notice to OWNER no later than fifteen (15) days prior to making an offer to the owner of the Non-Construction Agreement Offsite Property. At any time within that fifteen (15) day period, OWNER may, at its option, notify CITY that it wants CITY to cease all acquisition proceedings with respect to that Non-Construction Agreement Offsite Property, whereupon CITY shall cease such proceedings. CITY shall provide written notice to OWNER no later than fifteen (15) days prior to the date of the hearing on CITY'S intent to consider the adoption of a resolution of necessity as to any Non-Construction Agreement Offsite Property. At any time within that fifteen (15) day period, OWNER may, at its option, notify CITY that it wants CITY to cease condemnation proceedings, whereupon CITY shall cease such proceedings. If OWNER does not notify CITY to cease condemnation proceedings within said fifteen (15) day period, then the CITY may proceed to consider and act upon the Non-Construction Agreement Offsite Property resolution of necessity. If CITY adopts such resolution of necessity, then CITY shall diligently institute condemnation proceedings and file a complaint in condemnation and seek an order of immediate possession with respect to the Non-Construction Agreement Offsite Property.

3.9 Regulation by Other Public Agencies. It is acknowledged by the parties that other public agencies not within the control of CITY possess authority to regulate aspects of the development of the Property separately from or jointly with CITY and this Agreement does not limit the authority of such other public agencies. CITY agrees to cooperate fully, at no cost to CITY, with OWNER in obtaining any required permits or compliance with the regulations of other public agencies provided such cooperation is not in conflict with any laws, regulations or policies of the CITY.

3.10 Tentative Parcel Maps; Extension. With respect to applications by OWNER for tentative subdivision maps for portions of the Property, CITY agrees that OWNER may file and process tentative maps in accordance with Chapter 4.5 (commencing with Section 66498.1) of Division 2 of Title 7 of the California Government Code and the applicable provisions of CITY's subdivision ordinance, as the same may be amended from time to time. In accordance with the provisions of Section 66452.6 of the Government Code, each tentative subdivision map or tentative parcel map, heretofore or hereafter approved in connection with development of the Property, shall be deemed to have been granted an extension of time to and until the date that is five (5) years following the Effective Date of this Agreement.; The CITY's City Council may, in its discretion, extend any such map for an additional period of up to five (5) years beyond its original term, so long as the subdivider files a written request for an extension with the City prior to the expiration of the initial five (5) year term.

4. PUBLIC BENEFITS.

4.1 Intent. The parties acknowledge and agree that development of the Property will result in substantial public needs that will not be fully met by the Development Plan and further acknowledge and agree that this Agreement confers substantial private benefits on OWNER that should be balanced by commensurate public benefits. Accordingly, the parties intend to provide consideration to the public to balance the private benefits conferred on OWNER by providing more fully for the satisfaction of the public needs resulting from the Project.

4.2 Development Impact Fees.

4.2.1 Amount of Development Impact Fee. Development Impact Fees (DIF) shall be paid by OWNER. The Development Impact Fee amounts to be paid by OWNER shall be the amounts that are in effect at the time such amounts are due. Nothing contained in this Agreement shall affect the ability of the CITY to impose new Development Impact Fees or amend the amounts of existing Development Impact Fees. Additionally, nothing contained in this Agreement shall affect the ability of other public agencies that are not controlled by CITY to impose and amend, from time to time, Development Impact Fees established or imposed by such other public agencies, even though such Development Impact Fees may be collected by CITY.

4.2.2 Time of Payment. The Development Impact Fees required pursuant to Subsection 4.2.1 shall be paid to CITY prior to the issuance of building permit for each applicable residential or other unit, except for the Open Space and Habitat Acquisition Development Impact fee, which shall be paid by OWNER to CITY prior to the issuance of a grading permit. Deferral of the payment of Development Impact Fees may be granted pursuant to a separate agreement approved by City pursuant to City policy.

4.2.3 Parkland and Quimby Act Fees. Pursuant to the General Plan (OntarioPlan) Goal PR1, Policy PR1-5 (achievement of a park standard of 5 acres of parkland per 1,000 residents) OWNER shall provide improved parks, developed in accordance with the City's park standards in an amount equal to two (2) acres per 1,000 of projected population without credit, reimbursement, offset or consideration from City. Such areas shall either be dedicated to the City or transferred to a homeowner's association. If approved by the City Manager, OWNER may satisfy this requirement through the development of non-public recreation facilities such as private recreational clubhouses or pool facilities. Credit for such private recreational facilities areas shall be limited to a maximum of 50% of the foregoing park development requirement. If OWNER's Project does not provide dedicated and developed park acreage equal to two (2) acres per 1,000 projected population, OWNER shall pay a fee in-lieu equal to the per acre estimated costs of acquisition and development of parkland in the City's Development Impact Fee for the calculated park acreage deficiency. Such in-lieu fee shall be due and payable within 10 days following the issuance of the first building permit for a Production Unit issued to OWNER.

4.3 Responsibility for Construction of Public Improvements.

- 4.3.1 Timely Construction of Public Infrastructure. The phasing of the areawide infrastructure construction within the Ontario Ranch area will be as approved by the CITY. OWNER shall be responsible for the timely construction and completion of all public infrastructure required for the portion of the Project within the boundaries of Parcel Map 19725 as shown on the attached Exhibit "F-1" and OWNER shall be responsible for the timely construction and completion of all public infrastructure required for the portion of the Project within the boundaries of Parcel Map 19741 as shown on the attached Exhibit "F-2". OWNER shall also be responsible for the construction and completion of any and all tentative parcel map conditions. Unless otherwise specified in the Subdivision Agreement/Parcel Map conditions, all other required Improvements for each Parcel Map, and all subsequent Parcel or Tract Maps for the Property shall be completed and operational prior to, and as a condition precedent to, OWNER requesting and CITY's granting of the first building permit for a Non-Residential Unit or for Production Units for any such Parcel Map or future Tract Map. All Infrastructure and Improvements shall be completed as required by the Subdivision Agreement/Parcel Map conditions for Parcel Map Nos. 19725 and 19741 and as required by any future Tract Maps for the Property. Notwithstanding the above, OWNER and CITY agree that the development of any one of the Parcels in Parcel Map 19725 may be developed prior to, concurrent with, or after the development of any one of the Parcels in Parcel Map 19741, subject to completion of the conditions of approval for the respective Parcel Map.
- 4.3.2 Construction of DIF Program Infrastructure (Construction Agreement). To the extent OWNER is required to construct and completes construction of public improvements that are included in CITY's Development Impact Fee Program and the Construction Agreement between CITY and NMC Builders LLC, CITY agrees that CITY shall issue DIF Credit in accordance with the provisions of the Construction Agreement. Use of DIF Credit issued to OWNER as a member of NMC Builders LLC to offset OWNER's DIF payment obligations shall also be subject to the provisions of the Construction Agreement and any amendments thereto.
- 4.3.3 Construction of DIF Program Infrastructure (Non-Construction Agreement). To the extent OWNER is required to construct and completes construction of public improvements that are included in CITY's Development Impact Fee Program and such public improvements are not included the Construction Agreement between CITY and NMC Builders LLC, CITY agrees that CITY shall issue DIF Credit in accordance with the provisions of a separate Fee Credit Agreement between CITY and OWNER. Limitation on the use of DIF Credit issued to OWNER to offset OWNER's DIF payment obligations shall also be subject to the provisions of a separate Fee Credit Agreement. CITY and OWNER agree that the Fee Credit Agreement between CITY and OWNER shall comply with CITY's adopted policies applicable to such agreements.

4.4 Affordable Housing Requirement.

4.4.1 Affordable Housing- Number of Units. OWNER shall provide a minimum number of affordable housing units, equivalent to 10% of the OWNER's total approved residential units within the Project, that are affordable to very low, low and moderate income households. Such requirement for affordable housing shall be met through one, or a combination of one or more, of the options provided in the following Sections 4.4.2.1 through 4.4.2.5. For the purposes of this Section, any term not defined in this Agreement shall be as defined by California Community Redevelopment Law (California Health and Safety Code Section 33000 et seq.).

4.4.2 Affordability Spread. Of the total number of residential dwelling units specified in Section 4.4.1, to be constructed or rehabilitated pursuant to Sections 4.4.2.1 or 4.4.2.2 respectively, thirty percent (30%) shall be available to very low income, thirty percent (30%) shall be available to low income and forty percent (40%) shall be available to moderate income households. **"Households"** shall be as defined by California Health and Safety Code Section 50053.

4.4.2.1 New Construction. If OWNER elects to fully or partially satisfy the affordable housing requirement by the construction of new residential units, it shall construct and restrict the affordability of residential dwelling units within its Project or, at OWNER's option and with the approval of the City, within another project elsewhere within the City. The affordable units constructed shall be intermingled with other units as part of the Project, and shall be built to the same construction, design and aesthetic standards, as well as number of rooms, as other units constructed as part of that OWNER's Project. In addition, the percentage ratio of affordable units offered for sale versus those offered for rent shall equal the percentage ratio of other units offered for sale versus for rent within OWNER's Project. Such construction shall be completed no later than the date that is five (5) years following the issuance of the first building permit for OWNER's Project; provided however that to the extent OWNER has not constructed the required percentage of units, based on the number of building permits for non-restricted units, OWNER shall, prior to the issuance of such building permits, provide security (in the form and substance approved by the City Manager and City Attorney) to City in order to ensure the faithful completion of such required percentage of construction of affordable units. If OWNER elects the option of constructing new affordable units, a detailed Affordable Housing Agreement specifying terms for the allowable monthly housing costs or rents (as applicable) and maintenance and occupancy standards shall be prepared, executed and recorded against such units as a condition to the issuance of a building permit. The Affordable Housing Agreement shall hold a recorded priority position senior to any other non-statutory lien or encumbrance affecting the unit.

4.4.2.2 Rehabilitation. If OWNER elects to fully or partially satisfy the affordable housing requirement by the substantial rehabilitation of existing residential units in the City, it shall substantially rehabilitate and restrict the affordability of, the

number of residential units specified in Section 4.4.1, provided that such units shall be provided elsewhere within the City. The rehabilitation work shall be substantial and of high quality and shall also address any deferred property maintenance issues on the property. “**Substantial rehabilitation**” shall mean rehabilitated multi-family rented dwelling units with three or more units and the value of the rehabilitation constitutes 25 percent of the after rehabilitation value of the dwelling, inclusive of land value pursuant to Health and Safety Code Section 33413(b)(2)(A)(iii-iv) as such section exists as of the Effective Date of this Agreement. If OWNER chooses the option of rehabilitation of existing housing units within the City, a detailed Affordable Housing Agreement specifying the terms for the allowable month housing costs or rents (as applicable) and maintenance and occupancy standards shall be prepared, executed and recorded against such units as a condition to the issuance of a building permit. Such rehabilitation shall be completed no later than the date that is five (5) years following the issuance of the first building permit for OWNER’s Project; provided however that to the extent OWNER has not rehabilitated the required percentage of units, based on the number of building permits, OWNER shall, prior to the issuance of such building permits, provide security (in the form and substance approved by the City Manager and City Attorney) to the City in order to ensure the faithful completion of such required percentage of rehabilitation.

4.4.2.3 In-Lieu Fee. If OWNER has not fully complied with the requirements of Section 4.4.1 by providing the minimum number of affordable units through the construction of new affordable units or by the substantial rehabilitation of existing units, shall pay an “**Affordability In-Lieu Fee**”. If OWNER has not provided any affordable residential units by construction or rehabilitation, the Affordability In-Lieu fee shall be equal to Two Dollars Thirty-Seven Cents (\$2.37) per square foot of residential development within OWNER’s Project or, if pre-paid as set forth below, Two Dollars Seven Cents (\$2.07) per square foot of residential development within OWNER’s Project. If OWNER has partially complied with the requirements of Section 4.4.1 by construction or rehabilitation of less than the minimum number of units, then the Affordability In-lieu Fee shall be recalculated and reduced in consideration of the number and type of affordable units provided. The Affordability In-Lieu Fee shall be paid by OWNER to City no later than prior to the issuance of each building permit within OWNER’s Project based on the square footage of the residential unit for which such building permit is sought; provided however that OWNER may, at OWNER’s election, pre-pay such Affordability In-Lieu Fee by paying such Affordability In-Lieu Fee within thirty (30) days following the earliest discretionary approval by the City for OWNER’s Project, including, but not limited to, any general plan amendment, specific plan adoption, development agreement, tentative map approval, variance, conditional use permit, or resolution of intention to form any public financing mechanism. The Two Dollars, Thirty-Seven Cents (\$2.37) and the Two Dollars Seven Cents (\$2.07) per square foot amounts shall automatically be increased annually, commencing on July 1, 2017, and automatically each July 1 thereafter. Such adjustment shall be based on the percentage increase (but no decrease) in the

Consumer Price Index (Los Angeles-Anaheim-Riverside County), 1950-2001 (1982-84=100) over the preceding year. The pre-paid Affordability In-Lieu Fee shall be calculated based on the maximum floor area ratio (FAR) permitted within the General Plan and any applicable FAR contained within the applicable specific plan, whichever is greater, and the Maximum Development Density. For purposes of this Agreement, “**Maximum Development Density**” shall be determined by multiplying the OWNER’s Project’s density for residential development potential as set forth in the General Plan or the applicable Specific Plan, whichever is less, by the net acreage of land within OWNER’s Project. All “Affordability In-Lieu Fees” collected by the City shall be used to promote the construction of affordable housing within the City.

4.4.2.4 Affordability Covenants. Prior to the issuance of the first building permit for any affordable unit, the City and OWNER shall enter into an Affordable Housing Agreement. Affordability shall be assured for a period of forty-five (45) years for for-sale units and fifty-five (55) years for rentals. For rental units, base rents shall be established by the City and rental adjustments required by the City shall be performed on an annual basis. In addition, the Affordable Housing Agreement shall impose maximum occupancy limits of 2 occupants per bedroom plus 1 additional occupant per dwelling unit, and a requirement for the owner or tenant to properly maintain each dwelling unit.

4.4.2.5 Transfer of Affordable Project. No transfer of title to any affordable housing project shall occur without the prior written consent of the City. In the event OWNER transfers title to any affordable housing project required to be constructed pursuant to this Agreement to a non-profit entity, or other entity, that receives an exemption from ad valorem real property taxes, the City shall be required to assure payment of an annual in lieu fee to the City on July 1 of each year equal to one-tenth of one percent (0.1%) of the assessed value of such project. The City may permit OWNER to satisfy this obligation by recorded covenants against the property and enforceable against said entity by the City. Any such covenants shall be approved by the Planning Director and the City Attorney.

4.5 Schools Obligations.

4.5.1 Written Evidence of Compliance with Schools Obligations. OWNER shall, either through joint or individual agreements between OWNER and the applicable school district(s), shall satisfy its new school obligations. The new school obligations for the Mountain View School District in the New Model Colony area have been projected to include the acquisition or dedication of school sites for, and construction of, up to eight (8) schools. Of these eight (8) schools, six (6) are to be elementary (K-5) grade schools and two (2) are to be middle grade schools. The new school obligations for the Chaffey Joint Union High School District in the New Model Colony area have been projected to include the dedication of a school site for, and construction of, an additional high school. The new school obligations for the applicable school district shall be met by a

combination of the following: (1) designating and dedicating school site(s) within the Property as set forth in the General Plan, and/or (2) paying school impact fees, (3) entering into a joint mitigation agreement or individual mitigation agreements, or (4) any combination of the foregoing. Written evidence of approval by the applicable school district that OWNER has met their school obligations may be required by the City as the condition to the issuance by the City of any entitlements for OWNER's Project. In the event OWNER is unable to provide such written evidence from the applicable school district(s), the City shall have the right to decline to honor any DIF Credit, Certificates of MDD Availability, Certificates of Storm Water Treatment Capacity Availability, or any combination thereof, presented by such OWNER, without liability to the City. To the extent that a joint mitigation agreement is approved by the applicable school district(s), and OWNER is a participant in good standing in such mitigation agreement, OWNER shall be deemed to have mitigated its new school obligations under this Section 4.5.1.

4.6 Public Services Funding Fee.

4.6.1 Requirement for Payment of Public Services Funding Fee. In order to ensure that the adequate provision of public services, including without limitation, police, fire and other public safety services, are available to the residents of each Project in a timely manner, OWNER shall pay to CITY a "**Public Services Funding Fee.**" The Public Services Funding Fee shall apply to residential and non-residential uses as set forth below.

4.6.2 Public Services Funding Fee Amount. OWNER shall pay a Public Services Funding fee in the total amount of One Thousand Nine Hundred Seven dollars (\$1,907.00) per residential dwelling unit. The Public Services Funding Fee shall be paid in one (1) installment within one hundred eighty (180) calendar days after the effective date of the Development Agreement or in two (2) installments, at OWNER's option, as follows:

4.6.2.1 First Installment (Residential uses). The First Installment of the Public Services Funding Fee shall be Nine Hundred Fifty-Three dollars and fifty cents (\$953.50) per residential dwelling unit. The First Installment shall be based upon the "**Maximum Development Density**" of the OWNER Project, as defined in Section 3.7.2.3 of the First Amended and Restated Construction Agreement. The First Installment shall be due and payable 30 days following City's start of construction of Fire Station No. 9 or paid at the time of the issuance of each building permit for the Project, whichever comes first.

If the First installment amount is not paid for all residential dwelling units within the Project (based on the Maximum Development Density, or the number of units described on "B Maps" if approved) by January 1, 2018, the amount of the First Installment shall be increased. Such increase shall be based on the percentage increase (but no decrease) in the Consumer Price Index (Los Angeles-Anaheim-Riverside County), 1950-2001 (1982-84=100) over the preceding year.

Additionally, the amount shall be further increased automatically by the percentage increase in the Consumer Price Index (Los Angeles-Anaheim-Riverside) on each January 1 thereafter.

4.6.2.2 Second Installment (Residential Uses). The Second Installment of the Public Services Funding Fee shall be Nine Hundred Fifty-Three dollars and fifty cents (\$953.50) per residential unit. The Second Installment shall be paid at the time of the issuance of each building permit for the Project. The amount of the Second Installment shall increase automatically by percentage increase (but no decrease) in the Consumer Price Index (Los Angeles-Anaheim-Riverside County), 1950-2001 (1982-84=100) over the preceding year on January 1st of each year, beginning on January 1, 2018. OWNER may exercise the option to pay the Second Installment amount for all residential units, a portion of the residential units, or for the remainder of the residential units within OWNER's Project on or before each December 31st, before the Second Installment amount is automatically increased.

4.6.2.3 Single Installment (Non-residential Uses). A single installment payment of the Public Services Funding Fee shall be required in the amount of Fifty-Seven Cents (\$.57) per square foot of non-residential buildings. The single installment for non-residential uses shall be due and payable prior to the issuance of the building permit for a non-residential building. The amount of the Single Installment for non-residential uses shall automatically increase by percentage increase (but no decrease) in the Consumer Price Index (Los Angeles-Anaheim-Riverside County), 1950-2001 (1982-84=100) over the preceding year on January 1st of each year, beginning on January 1, 2018. OWNER may exercise the option to pay any single installment amounts for the remainder of the non-residential square footage within the Project on or before December 31st, before the Single Installment amount is automatically increased.

4.7 Net MDD/Water Availability Equivalents.

4.7.1 Assigned Net MDD/Water Availability Equivalents. The City has agreed with NMC Builders LLC to reserve exclusively for Members of NMC Builders, including OWNER, Net MDD made available through the construction of water system improvements funded by NMC Builders LLC. NMC Builders has assigned to OWNER its allocable share of the Net MDD issued by City. The provisions of the Construction Agreement Amendment requires that the City shall not approve a final parcel map or subdivision map, or issue building permits or certificates of occupancy for the area of development within the New Model Colony served by the water system improvements funded by NMC Builders LLC, except to the bearer of an Assignment of Net MDD Water Availability.

4.7.2 Use of Assigned Net MDD Water Availability. OWNER shall provide evidence of sufficient Net MDD Water Availability Equivalents (or portions thereof) prior to and as a condition precedent to, the City's approval of any and all parcel maps for the Property. The amount of Net MDD Water Availability Equivalents

required for City's approval of a parcel map shall be based upon water demand factors and assumptions listed in Exhibit C-2R of the Construction Agreement Amendment as "Water Demand Equivalents by Land Use" for each land use category.

4.7.3 Requirement for other Water System Improvements. A Certificate of Net MDD Availability is evidence only of available water capacity and does not satisfy any other conditions applicable to OWNER's Project, including those relating to design and construction of master-planned potable water and recycled water transmission and distribution system for the respective pressure zone and other public infrastructure requirements.

4.8 Storm Water Capacity Availability.

4.8.1 Requirement for Storm Water Treatment Capacity Availability. OWNER shall provide evidence of sufficient Storm Water Treatment Capacity Availability as reserved in a Certificate of Storm Water Treatment Capacity Availability for all acreage of residential uses in the same manner and subject to the same limitations as provided for the assignment of Certificates of Net MDD Availability in Section 4.6 of this Agreement.

4.8.2 Use of Storm Water Treatment Capacity Availability. The amount of Storm Water Treatment Capacity Availability required for the issuance of a grading permit to OWNER shall be based upon the Net Residential Acreage of the area to be graded regardless of the corresponding residential use.

4.8.3 Requirement for other Storm Water Improvements. The Certificate of Storm Water Treatment Capacity Availability is evidence only of available storm water treatment capacity and does not satisfy any other conditions applicable to a particular development project, including those relating to on-site water treatment, water quality, connection to the storm water collection system, or other public infrastructure requirements.

4.9 Maintenance of Common Areas or Open Space. OWNER shall provide for the ongoing maintenance of all park and common or open space areas within the Project as more particularly set forth in the Specific Plan, through a homeowners' association or public financing mechanism, as approved by the CITY. Covenants, conditions and restrictions establishing any homeowners' association shall be approved by the Planning Director and City Attorney. If requested by OWNER, the CITY shall use good faith efforts to require other developments within the Specific Plan to join such homeowners' association or public financing mechanism for the purpose of maintaining such parks and open spaces that are open to the public.

4.10 Edison Easement Improvements. OWNER shall develop as park or open space purposes that area within the Project areas owned in fee by Southern California Edison or in which Southern California Edison has an easement or license, as more particularly set forth in the Specific Plan. Said park or open space development shall be consistent

with the New Model Colony Park Master Plan standards for park and open space development. Notwithstanding OWNER's development of park or open space areas as required by this Section 4.8. OWNER shall not be entitled to any credit, offset or reimbursement from the CITY for such park or open space development.

4.11 Compliance with Public Benefits Requirements.

4.11.1 Failure to Provide Public Benefits. In the event OWNER fails or refuses to comply with any condition referenced in Section 4.1 through 4.9, or challenges (whether administratively or through legal proceedings) the imposition of such conditions, OWNER shall be deemed in default of this Agreement pursuant to Section 8.4 hereof, thereby entitling the City to any and all remedies available to it, including, without limitation, the right of the City to withhold OWNER's Project-related building permits, certificates of occupancy, or discretionary approvals, without liability.

5. FINANCING OF PUBLIC IMPROVEMENTS.

5.1 Financing Mechanism(s). In accordance with the Memorandum of Agreement between the CITY and NMC Builders, CITY will cooperate with OWNER in the formation of a CFD, or CFDs, to include all of the Project, to provide a financing mechanism to reimburse the OWNER for funds paid to NMC Builders LLC for OWNER's share of the costs of public infrastructure pursuant to the Construction Agreement. Notwithstanding such reimbursements, OWNER shall remain entitled to DIF Credits as provided for in Article 3 of the Construction Agreement and/or as provided for in a separate Fee Credit Agreement between CITY and OWNER. OWNER agrees that, prior to the recordation of any B Map, the property subject to such B Map shall be included in a CFD to finance City services through annual special taxes that will initially be \$1,442.00 per Single Family Detached Dwelling Unit, \$1,250.00 per Multiple-Family Dwelling Unit, \$1,048.00 per Gated Apartment Community Dwelling Unit, and \$.27 per square foot for Non-Residential buildings. These amounts shall be subject to an automatic increase at a rate not to exceed four (4%) percent per year. CITY shall be the sole and exclusive lead agency in the formation of any CFD, assessment district or other public financing mechanism within the Property; provided however, that the proceeds of any such CFD, assessment district, or financing mechanism may be used, subject to restrictions that may be imposed by applicable law, for the purposes of acquiring, constructing or maintaining public facilities to be owned or operated by other public agencies, including, without limitation those facilities owned or operated by a school district. CITY shall have the right, but not the obligation, to condition the formation of any CFD, assessment district or other public financing mechanism within the Property on the OWNER mitigating all Project-related impacts to the applicable school district(s) as required by such school district(s). Written evidence by such school district(s) may be required by the CITY as the condition to the formation of any CFD, assessment district or other public financing mechanism within the Property, or any steps preliminary thereto, including, without limitation, the adoption of any resolution of intention to form such CFD, assessment district or other public financing mechanism within the Property. It is not the intent of the parties hereto, by this provision, to prohibit or otherwise limit the

City's ability to take any and all necessary steps requisite to the formation of the CFD to finance City services through annual special taxes as set forth in this Section 5.1. Formation of any CFD, assessment district or other public financing mechanism within the Property, shall be subject to CITY's ability to make all findings required by applicable law and complying with all applicable legal procedures and requirements including, without limitation, CITY's public financing district policies as such policies may be amended from time to time. Notwithstanding the foregoing, it is acknowledged and agreed by the parties that nothing contained in this Agreement shall be construed as requiring CITY or the City Council to form any such district or to issue and sell bonds.

6. REVIEW FOR COMPLIANCE.

6.1 Periodic and Special Reviews.

6.1.1 Time for and Initiation of Periodic Review. The CITY shall review this Agreement every twelve (12) months from the Effective Date in order to ascertain the good faith compliance by the OWNER with the terms of this Agreement. The OWNER shall submit an Annual Monitoring Report to CITY, in a form acceptable to the City Manager, along with any applicable processing charge within ten (10) days after each anniversary date of the Effective Date of this Agreement. Within fifteen (15) days after the receipt of the Annual Monitoring Report, CITY shall review the Annual Monitoring Report. Prior to the expiration of the fifteen (15) day review period, CITY shall either issue a notice of continuing compliance or a notice of non-compliance and a notice of CITY's intent to conduct a Special Review pursuant to Sections 6.1.2 through 6.1.6. Issuance of a notice of continuing compliance may be issued by the City Manager or his designee.

6.1.2 Initiation of Special Review. A special review may be called either by agreement between the parties or by initiation in one or more of the following ways:

- (1) Recommendation of the Planning staff;
- (2) Affirmative vote of at least four (4) members of the Planning Commission; or
- (3) Affirmative vote of at least three (3) members of the City Council.

6.1.3 Notice of Special Review. The City Manager shall begin the special review proceeding by giving notice that the CITY intends to undertake a special review of this Agreement to the OWNER. Such notice shall be given at least ten (10) days in advance of the time at which the matter will be considered by the Planning Commission.

6.1.4 Public Hearing. The Planning Commission shall conduct a hearing at which the OWNER must demonstrate good faith compliance with the terms of this Agreement. The burden of proof on this issue is upon the OWNER.

6.1.5 Findings Upon Public Hearing. The Planning Commission shall determine upon the basis of substantial evidence whether or not the OWNER has, for the period under review, complied in good faith with the terms and conditions of this Agreement.

6.1.6 Procedure Upon Findings.

(a) If the Planning Commission finds and determines on the basis of substantial evidence that the OWNER has complied in good faith with the terms and conditions of this Agreement during the period under review, the review for that period is concluded.

(b) If the Planning Commission finds and determines on the basis of substantial evidence that the OWNER has not complied in good faith with the terms and conditions of this Agreement during the period under review, the Planning Commission may recommend to the City Council to modify or terminate this Agreement.

(c) The OWNER may appeal a determination pursuant to paragraph (b) to the City Council in accordance with the CITY's rule for consideration of appeals in zoning matters generally.

6.2 Proceedings Upon Modification or Termination. If, upon a finding under Section 6.1.6(b), the CITY determines to proceed with modification or termination of this Agreement, the CITY shall give notice to the property OWNER of its intention so to do. The notice shall contain:

(a) The time and place of the hearing;

(b) A statement as to whether or not the CITY proposes to terminate or to modify this Agreement; and

(c) Other information that the CITY considers necessary to inform the OWNER of the nature of the proceeding.

6.3 Hearing on Modification or Termination. At the time and place set for the hearing on modification or termination, the OWNER shall be given an opportunity to be heard. The OWNER shall be required to demonstrate good faith compliance with the terms and conditions of this Agreement. The burden of proof on this issue shall be on the OWNER. If the City Council finds, based upon substantial evidence in the administrative record, that the OWNER has not complied in good faith with the terms and conditions of the agreement, the City Council may terminate or modify this

Agreement and impose those conditions to the action it takes as it considers necessary to protect the interests of the CITY. The decision of the City Council shall be final, subject only to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.

6.4 Certificate of Agreement Compliance. If, at the conclusion of a Periodic or Special Review, OWNER is found to be in compliance with this Agreement, CITY shall, upon written request by OWNER, issue a Certificate of Agreement Compliance ("Certificate") to OWNER stating that after the most recent Periodic or Special Review and based upon the information known or made known to the Planning Director and City Council that (1) this Agreement remains in effect and (2) OWNER is not in default. The Certificate shall be in recordable form, shall contain information necessary to communicate constructive record notice of the finding of compliance, shall state whether the Certificate is issued after a Periodic or Special Review and shall state the anticipated date of commencement of the next Periodic Review. OWNER may record the Certificate with the County Recorder. Whether or not the Certificate is relied upon by assignees or other transferees or OWNER, CITY shall not be bound by a Certificate if a default existed at the time of the Periodic or Special Review, but was concealed from or otherwise not known to the Planning Director or City Council.

7. [RESERVED]

8. DEFAULT AND REMEDIES.

8.1 Remedies in General. It is acknowledged by the parties that CITY would not have entered into this Agreement if it were to be liable in damages under this Agreement, or with respect to this Agreement or the application thereof.

In general, each of the parties hereto may pursue any remedy at law or equity available for the breach of any provision of this Agreement, except that CITY shall not be liable in damages to OWNER, or to any successor in interest of OWNER, or to any other person, and OWNER covenants not to sue for damages or claim any damages:

(a) For any breach of this Agreement or for any cause of action which arises out of this Agreement; or

(b) For the taking, impairment or restriction of any right or interest conveyed or provided under or pursuant to this Agreement; or

(c) Arising out of or connected with any dispute, controversy or issue regarding the application or interpretation or effect of the provisions of this Agreement.

8.2 Specific Performance. The parties acknowledge that money damages and remedies at law generally are inadequate and specific performance and other non-monetary relief are particularly appropriate remedies for the enforcement of this Agreement and should be available to all parties for the following reasons:

(a) Money damages are unavailable against CITY as provided in Section 8.1 above.

(b) Due to the size, nature and scope of the project, it may not be practical or possible to restore the Property to its natural condition once implementation of this Agreement has begun. After such implementation, OWNER may be foreclosed from other choices it may have had to utilize the Property or portions thereof. OWNER has invested significant time and resources and performed extensive planning and processing of the Project in agreeing to the terms of this Agreement and will be investing even more significant time and resources in implementing the Project in reliance upon the terms of this Agreement, and it is not possible to determine the sum of money which would adequately compensate OWNER for such efforts.

8.3 Release. Except for nondamage remedies, including the remedy of specific performance and judicial review as provided for in Section 6.5, OWNER, for itself, its successors and assignees, hereby releases the CITY, its officers, agents and employees from any and all claims, demands, actions, or suits of any kind or nature arising out of any liability, known or unknown, present or future, including, but not limited to, any claim or liability, based or asserted, pursuant to Article I, Section 19 of the California Constitution, the Fifth Amendment of the United States Constitution, or any other law or ordinance which seeks to impose any other liability or damage, whatsoever, upon the CITY because it entered into this Agreement or because of the terms of this Agreement.

8.4 Termination or Modification of Agreement for Default of OWNER. Subject to the provisions contained in Subsections 6.2 and 6.3 herein, CITY may terminate or modify this Agreement for any failure of OWNER to perform any material duty or obligation of OWNER under this Agreement, or to comply in good faith with the terms of this Agreement (hereinafter referred to as "default"); provided, however, CITY may terminate or modify this Agreement pursuant to this Section only after providing written notice to OWNER of default setting forth the nature of the default and the actions, if any, required by OWNER to cure such default and, where the default can be cured, OWNER has failed to take such actions and cure such default within 60 days after the effective date of such notice or, in the event that such default cannot be cured within such 60 day period but can be cured within a longer time, has failed to commence the actions necessary to cure such default within such 60 day period and to diligently proceed to complete such actions and cure such default.

8.5 Termination of Agreement for Default of CITY. OWNER may terminate this Agreement only in the event of a default by CITY in the performance of a material term of this Agreement and only after providing written notice to CITY of default setting forth the nature of the default and the actions, if any, required by CITY to cure such default and, where the default can be cured, CITY has failed to take such actions and cure such default within 60 days after the effective date of such notice or, in the event that such default cannot be cured within such 60 day period but can be cured within a longer time, has failed to commence the actions necessary to cure such default within such 60 day period and to diligently proceed to complete such actions and cure such default.

9. THIRD PARTY LITIGATION.

9.1 General Plan Litigation. CITY has determined that this Agreement is consistent with its Comprehensive General Plan, as such General Plan exists as of the Effective Date ("General Plan"), and that the General Plan meets all requirements of law. OWNER has reviewed the General Plan and concurs with CITY's determination. CITY shall have no liability in damages under this Agreement for any failure of CITY to perform under this Agreement or the inability of OWNER to develop the Property as contemplated by the Development Plan of this Agreement as the result of a judicial determination that on the Effective Date, or at any time thereafter, the General Plan, or portions thereof, are invalid or inadequate or not in compliance with law.

9.2 Third Party Litigation Concerning Agreement. OWNER shall defend, at its expense, including attorneys' fees, indemnify, and hold harmless CITY, its agents, officers and employees from any claim, action or proceeding against CITY, its agents, officers, or employees to attack, set aside, void, or annul the approval of this Agreement or the approval of any permit granted pursuant to this Agreement. CITY shall promptly notify OWNER of any such claim, action or proceeding, and CITY shall cooperate in the defense. If CITY fails to promptly notify OWNER of any such claim, action or proceeding, or if CITY fails to cooperate in the defense, OWNER shall not thereafter be responsible to defend, indemnify, or hold harmless CITY. CITY may in its discretion participate in the defense of any such claim, action or proceeding.

9.3 Indemnity. In addition to the provisions of 9.2 above, OWNER shall indemnify and hold CITY, its officers, agents, employees and independent contractors free and harmless from any liability whatsoever, based or asserted upon any act or omission of OWNER, its officers, agents, employees, subcontractors and independent contractors, for property damage, bodily injury, or death (OWNER's employees included) or any other element of damage of any kind or nature, relating to or in any way connected with or arising from the activities contemplated hereunder, including, but not limited to, the study, design, engineering, construction, completion, failure and conveyance of the public improvements, save and except claims for damages arising through the sole active negligence or sole willful misconduct of CITY. OWNER shall defend, at its expense, including attorneys' fees, CITY, its officers, agents, employees and independent contractors in any legal action based upon such alleged acts or omissions. CITY may in its discretion participate in the defense of any such legal action.

9.4 Environment Assurances. OWNER shall indemnify and hold CITY, its officers, agents, and employees free and harmless from any liability, based or asserted, upon any act or omission of OWNER, its officers, agents, employees, subcontractors, predecessors in interest, successors, assigns and independent contractors for any violation of any federal, state or local law, ordinance or regulation relating to industrial hygiene or to environmental conditions on, under or about the Property, including, but not limited to, soil and groundwater conditions, and OWNER shall defend, at its expense, including attorneys' fees, CITY, its officers, agents and employees in any action based or asserted upon any such alleged act or omission. CITY may in its discretion participate in the defense of any such action.

9.5 Reservation of Rights. With respect to Sections 9.2, 9.3 and 9.4 herein, CITY reserves the right to either (1) approve the attorney(s) which OWNER selects, hires or otherwise engages to defend CITY hereunder, which approval shall not be unreasonably withheld, or (2) conduct its own defense, provided, however, that OWNER shall reimburse CITY forthwith for any and all reasonable expenses incurred for such defense, including attorneys' fees, upon billing and accounting therefor.

9.6 Survival. The provisions of this Sections 9.1 through 9.6, inclusive, shall survive the termination of this Agreement.

10. MORTGAGEE PROTECTION.

The parties hereto agree that this Agreement shall not prevent or limit OWNER, in any manner, at OWNER's sole discretion, from encumbering the Property or any portion thereof or any improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to the Property. CITY acknowledges that the lenders providing such financing may require certain Agreement interpretations and modifications and agrees upon request, from time to time, to meet with OWNER and representatives of such lenders to negotiate in good faith any such request for interpretation or modification. CITY will not unreasonably withhold its consent to any such requested interpretation or modification provided such interpretation or modification is consistent with the intent and purposes of this Agreement. Any Mortgagee of the Property shall be entitled to the following rights and privileges:

(a) Neither entering into this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any mortgage on the Property made in good faith and for value, unless otherwise required by law.

(b) The Mortgagee of any mortgage or deed of trust encumbering the Property, or any part thereof, which Mortgagee, has submitted a request in writing to the CITY in the manner specified herein for giving notices, shall be entitled to receive written notification from CITY of any default by OWNER in the performance of OWNER's obligations under this Agreement.

(c) If CITY timely receives a request from a Mortgagee requesting a copy of any notice of default given to OWNER under the terms of this Agreement, CITY shall provide a copy of that notice to the Mortgagee within ten (10) days of sending the notice of default to OWNER. The Mortgagee shall have the right, but not the obligation, to cure the default during the remaining cure period allowed such party under this Agreement.

(d) Any Mortgagee who comes into possession of the Property, or any part thereof, pursuant to foreclosure of the mortgage or deed of trust, or deed in lieu of such foreclosure, shall take the Property, or part thereof, subject to the terms of this Agreement. Notwithstanding any other provision of this Agreement to the contrary, no Mortgagee shall have an obligation or duty under this Agreement to perform any of OWNER's obligations or other affirmative covenants of OWNER hereunder, or to guarantee such performance; provided, however, that to the extent that any covenant to

be performed by OWNER is a condition precedent to the performance of a covenant by CITY, the performance thereof shall continue to be a condition precedent to CITY's performance hereunder, and further provided that any sale, transfer or assignment by any Mortgagee in possession shall be subject to the provisions of Section 2.4 of this Agreement.

11. MISCELLANEOUS PROVISIONS.

11.1 Recordation of Agreement. This Agreement and any amendment or cancellation thereof shall be recorded with the San Bernardino County Recorder by the City Clerk within the ten (10) days after the CITY executes this Agreement, as required by Section 65868.5 of the Government Code. If the parties to this Agreement or their successors in interest amend or cancel this Agreement as provided for herein and in Government Code Section 65868, or if the CITY terminates or modifies the agreement as provided for herein and in Government Code Section 65865.1 for failure of the applicant to comply in good faith with the terms or conditions of this Agreement, the City Clerk shall have notice of such action recorded with the San Bernardino County Recorder.

11.2 Entire Agreement. This Agreement sets forth and contains the entire understanding and agreement of the parties, and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements which are not contained or expressly referred to herein. No testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement.

11.3 Severability. If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of this Agreement. Notwithstanding the foregoing, the provision of the Public Benefits set forth in Section 4 of this Agreement, including the payment of the fees set forth therein, are essential elements of this Agreement and CITY would not have entered into this Agreement but for such provisions, and therefore in the event such provisions are determined to be invalid, void or unenforceable, this entire Agreement shall be null and void and of no force and effect whatsoever.

11.4 Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.

11.5 Section Headings. All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

11.6 Singular and Plural. As used herein, the singular of any word includes the plural.

11.7 Joint and Several Obligations. Subject to section 2.4, if at any time during the term of this Agreement the Property is owned, in whole or in part, by more than one owner, all obligations of such owners under this Agreement shall be joint and several, and the default of any such owner shall be the default of all such owners. Notwithstanding the foregoing, no owner of a single lot which has been finally subdivided and sold to such owner as a member of the general public or otherwise as an ultimate user shall have any obligation under this Agreement except as provided under Section 4 hereof.

11.8 Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

11.9 Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.

11.10 No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the parties and their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.

11.11 Force Majeure. Neither party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused by floods, earthquakes, other Acts of God, fires, wars, riots or similar hostilities, strikes and other labor difficulties beyond the party's control, (including the party's employment force), government regulations, court actions (such as restraining orders or injunctions), or other causes beyond the party's control. If any such events shall occur, the term of this Agreement and the time for performance by either party of any of its obligations hereunder may be extended by the written agreement of the parties for the period of time that such events prevented such performance, provided that the term of this Agreement shall not be extended under any circumstances for more than five (5) years.

11.12 Mutual Covenants. The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefited thereby of the covenants to be performed hereunder by such benefited party.

11.13 Successors in Interest. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties to this Agreement. All provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land. Each covenant to do or

refrain from doing some act hereunder with regard to development of the Property: (a) is for the benefit of and is a burden upon every portion of the Property; (b) runs with the Property and each portion thereof; and, (c) is binding upon each party and each successor in interest during ownership of the Property or any portion thereof.

11.14 Counterparts. This Agreement may be executed by the parties in counterparts, which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument.

11.15 Jurisdiction and Venue. Any action at law or in equity arising under this Agreement or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of San Bernardino, State of California, and the parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court.

11.16 Project as a Private Undertaking. It is specifically understood and agreed by and between the parties hereto that the development of the Project is a private development, that neither party is acting as the agent of the other in any respect hereunder, and that each party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint venture or other association of any kind is formed by this Agreement. The only relationship between CITY and OWNER is that of a government entity regulating the development of private property and the owner of such property.

11.17 Further Actions and Instruments. Each of the parties shall cooperate with and provide reasonable assistance to the other to the extent contemplated hereunder in the performance of all obligations under this Agreement and the satisfaction of the conditions of this Agreement. Upon the request of either party at any time, the other party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Agreement to carry out the intent and to fulfill the provisions of this Agreement or to evidence or consummate the transactions contemplated by this Agreement. The City Manager may delegate his powers and duties under this Agreement to an Assistant City Manager or other management level employee of the CITY.

11.18 Eminent Domain. No provision of this Agreement shall be construed to limit or restrict the exercise by CITY of its power of eminent domain.

11.19 Agent for Service of Process. In the event OWNER is not a resident of the State of California or it is an association, partnership or joint venture without a member, partner or joint venturer resident of the State of California, or it is a foreign corporation, then in any such event, OWNER shall file with the Planning Director, upon its execution of this Agreement, a designation of a natural person residing in the State of California, giving his or her name, residence and business addresses, as its agent for the purpose of service of process in any court action arising out of or based upon this Agreement,

and the delivery to such agent of a copy of any process in any such action shall constitute valid service upon OWNER. If for any reason service of such process upon such agent is not feasible, then in such event OWNER may be personally served with such process out of this County and such service shall constitute valid service upon OWNER. OWNER is amenable to the process so served, submits to the jurisdiction of the Court so obtained and waives any and all objections and protests thereto. OWNER for itself, assigns and successors hereby waives the provisions of the Hague Convention (Convention on the Service Abroad of Judicial and Extra Judicial Documents in Civil or Commercial Matters, 20 U.S.T. 361, T.I.A.S. No. 6638).

11.20 Estoppel Certificate. Within thirty (30) business days following a written request by any of the parties, the other party shall execute and deliver to the requesting party a statement certifying that (i) either this Agreement is unmodified and in full force and effect or there have been specified (date and nature) modifications to the Agreement, but it remains in full force and effect as modified; and (ii) either there are no known current uncured defaults under this Agreement or that the responding party alleges that specified (date and nature) defaults exist. The statement shall also provide any other reasonable information requested. The failure to timely deliver this statement shall constitute a conclusive presumption that this Agreement is in full force and effect without modification except as may be represented by the requesting party and that there are no uncured defaults in the performance of the requesting party, except as may be represented by the requesting party. OWNER shall pay to CITY all costs incurred by CITY in connection with the issuance of estoppel certificates under this Section 11.20 prior to CITY's issuance of such certificates.

11.21 Authority to Execute. The person or persons executing this Agreement on behalf of OWNER warrants and represents that he or she/they have the authority to execute this Agreement on behalf of his or her/their corporation, partnership or business entity and warrants and represents that he or she/they has/have the authority to bind OWNER to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year set forth below.

[SIGNATURES CONTAINED ON FOLLOWING PAGE]

**SIGNATURE PAGE
TO DEVELOPMENT AGREEMENT**

"OWNER"

GDCI-RCCD 2 LP
a Delaware limited partnership company

By: GDC Holdings, LLC, a California
limited liability company
Its: General Partner

By: _____
Frank Thomas
President

Date: _____

"CITY"

CITY OF ONTARIO

By: _____
Al C. Boling
City Manager

Date: _____

ATTEST:

City Clerk, Ontario

APPROVED AS TO FORM:

BEST, BEST & KREIGER LLP

City Attorney

EXHIBIT "A"
TO DEVELOPMENT AGREEMENT
Legal Description

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF ONTARIO, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

TENTATIVE MAP NO. T/F IS A SUBDIVISION OF THE LAND DESCRIBED AS FOLLOWS:

PARCEL NO. 1:

THE NORTH ONE-HALF OF THE SOUTH ONE-HALF OF THE NORTHEAST ONE-QUARTER OF SECTION 13, TOWNSHIP 2 SOUTH, RANGE 7 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, ACCORDING TO THE UNITED STATES GOVERNMENT STREET PLAT THEREOF, APPROVED BY THE SURVEYOR GENERAL, DATED DECEMBER 30, 1881.

EXCEPT THE EAST 30 FEET, AS CONVEYED TO THE STATE OF CALIFORNIA, BY DEED RECORDED OCTOBER 14, 1942 IN BOOK 1557, PAGE 210 OFFICIAL RECORDS.

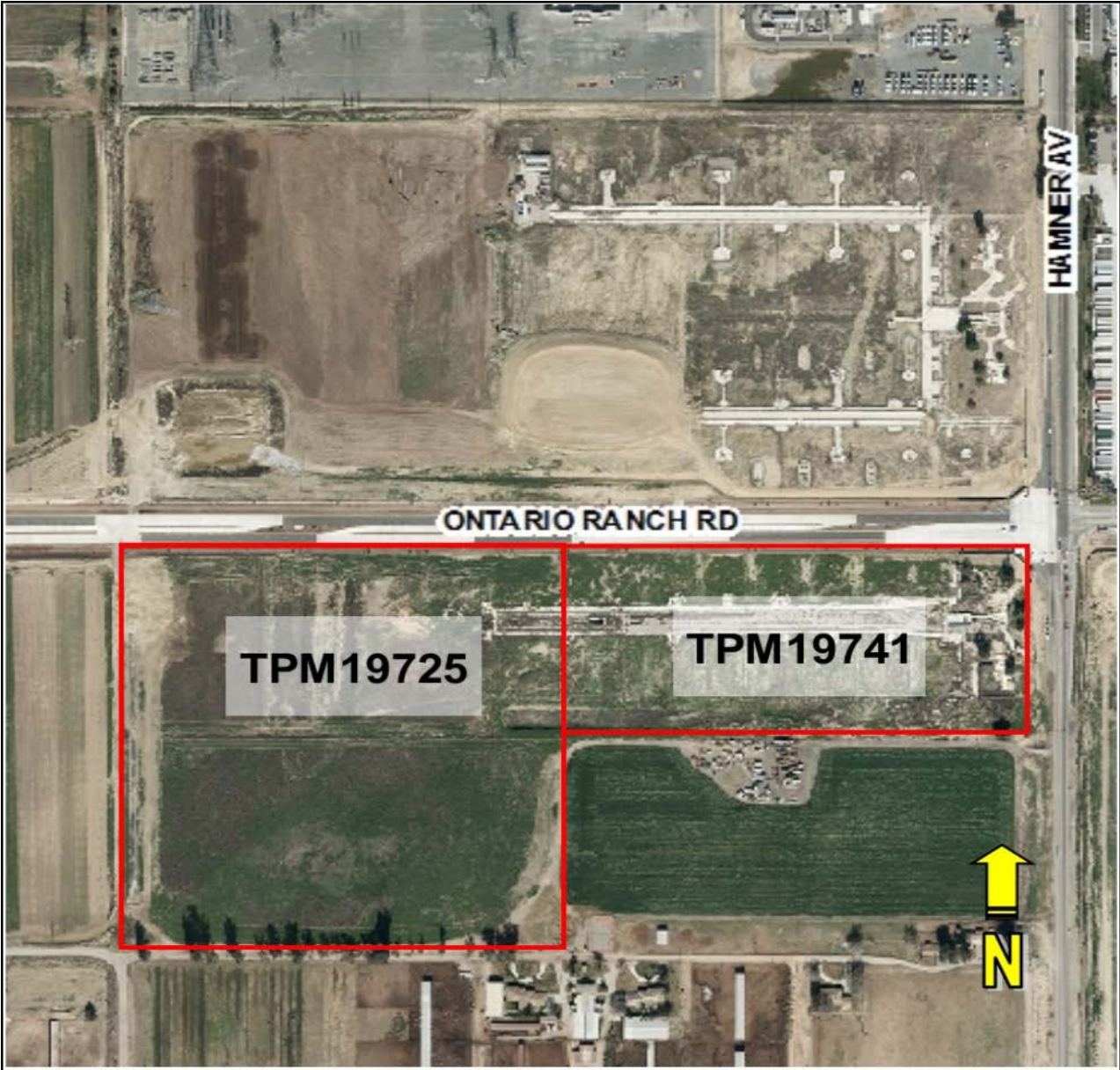
ALSO EXCEPT THEREFROM THAT PORTION THEREOF CONVEYED TO THE CITY OF ONTARIO, A POLITICAL SUBDIVISION OF THE STATE OF CALIFORNIA BY DOCUMENT RECORDED NOVEMBER 4, 2013 AS INSTRUMENT NO. 2013-0474297 OFFICIAL RECORDS OF SAN BERNARDINO COUNTY, CALIFORNIA.

PARCEL NO. 2:

THE SOUTH ONE-HALF OF THE SOUTHWEST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SECTION 13, TOWNSHIP 2 SOUTH, RANGE 7 WEST, SAN BERNARDINO BASE AND MERIDIAN, ACCORDING TO THE UNITED STATES GOVERNMENT TOWNSHIP PLAT THEREOF, APPROVED BY THE SURVEYOR GENERAL, DATED DECEMBER 30, 1881.

APN: **0218-211-12-0-000, 0218-211-25-0-000**

EXHIBIT "B"
TO DEVELOPMENT AGREEMENT
Map Showing Property and its Location



**EXHIBIT “C”
TO DEVELOPMENT AGREEMENT
Existing Development Approvals**

On October 23, 2007, the Planning Commission:

- a) Issued Resolution No. issued Resolution PC07-125 recommending City Council certification of the Rich-Haven EIR.
- b) Issued Resolution PC07-127 recommending City Council approval of the Rich-Haven Specific Plan (File No. PSP05-004).

On December 4, 2007, the City Council:

- a) Issued Resolution 2007-145 to certifying the Rich-Haven Specific Plan EIR (SCH #2006051081).
- b) Adopted Ordinance No. 2884 approving the Rich-Haven Specific Plan.

On February 23, 2016, the Planning Commission:

- a) Issued Resolution PC16-003 recommending City Council adoption of an Addendum to the Rich-Haven EIR.
- b) Issued Resolution PC16-004 recommending approval of the Rich-Haven Specific Plan Amendment (File No. PSPA16-001).

On March 15, 2016, the City Council:

- a) Issued Resolution No. 2016-024 for the adoption of an Addendum (File No. PSPA16-001) to the Rich-Haven Specific Plan EIR.
- b) Issued Resolution No. 2016-025 approving an Amendment (File No. PSPA16-001) to the Rich-Haven Specific Plan.

On February 28, 2017, the Planning Commission:

- a) Issued Resolution No. PC17-*** recommending City Council approval of the Development Agreement (File No. PDA16-003).
- b) Issued Resolution No. PC17-*** approving Tentative Parcel Map 19725 (File No. PMTT16-010).
- c) Issued Resolution No. PC17-*** approving Tentative Parcel Map 19741 (File No. PMTT16-011).

EXHIBIT “D”
TO DEVELOPMENT AGREEMENT
Existing Land Use Regulations

These documents are listed for reference only:

1. The Rich-Haven Specific Plan (File No. PSP05-004) Environmental Impact Report, Resolution No. 2007-145.
2. The Rich-Haven Specific Plan (File No. PSP05-004), Ordinance N. 2884.
3. Addendum to the Rich-Haven Specific Plan (File No. PSPA16-001) Environmental Impact Report, Resolution No. 2016-024.
4. Amendment to the Rich-Haven Specific Plan (File No. PSPA16-001), Resolution No. 2016-025.
5. Tentative Parcel Map 19725 (File No. PMTT16-010), Resolution No. PC17-***
6. Tentative Parcel Map 19741 (File No. PMTT16-011), Resolution No. PC17-***
7. City of Ontario Municipal Code
 - a. Six – Sanitation & Health
 - b. Seven – Public Works
 - c. Eight – Building Regulations
 - d. Nine – Development Code
 - e. Ten – Parks & Recreation

EXHIBIT "E"
TO DEVELOPMENT AGREEMENT
Tentative Parcel 19725 (Continued)

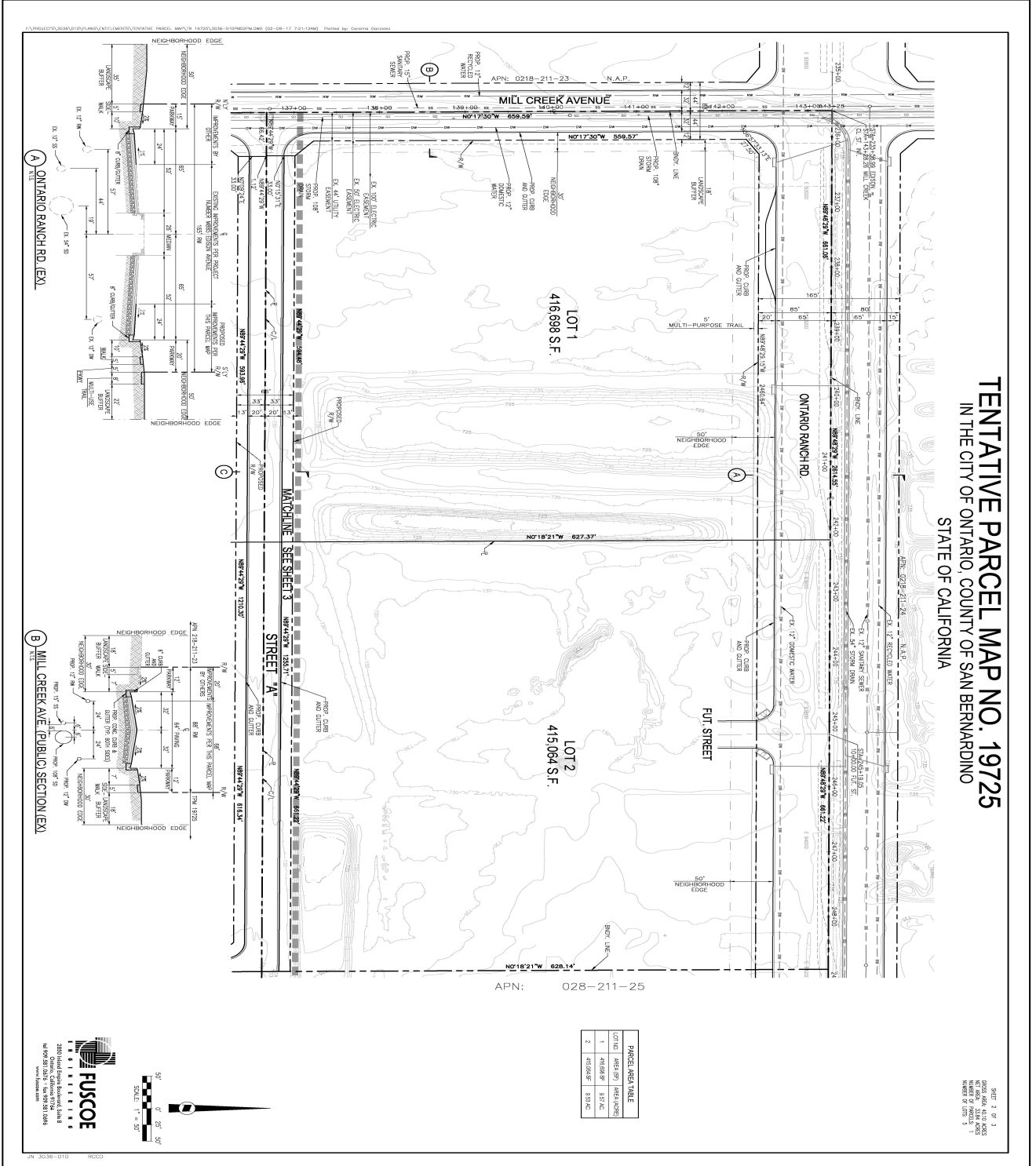


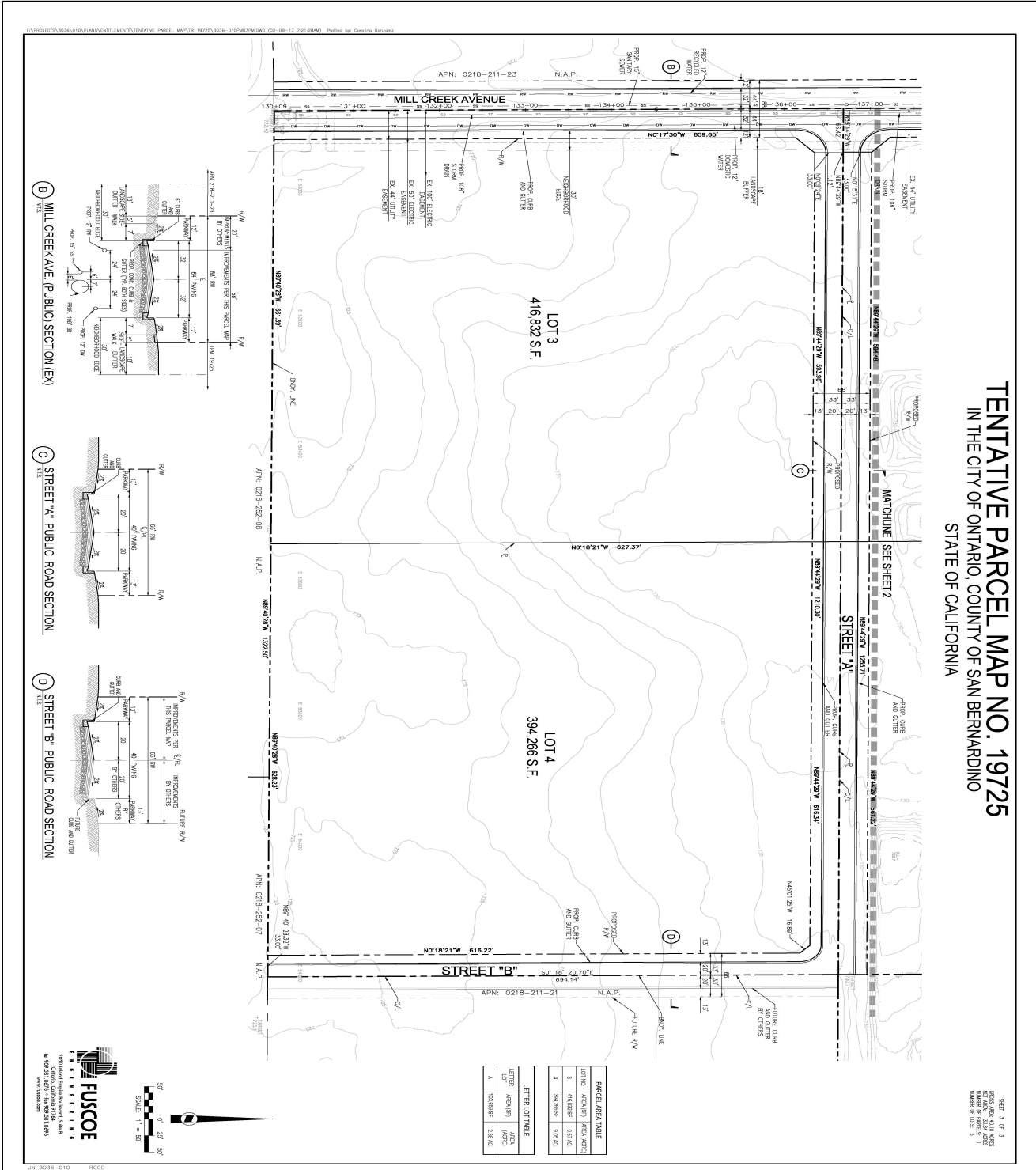
EXHIBIT "E"

TO DEVELOPMENT AGREEMENT

Tentative Parcel 19725 (Continued)

TENTATIVE PARCEL MAP NO. 19725

IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO
STATE OF CALIFORNIA



B MILL CREEK AVE. (PUBLIC SECTION) (E.V.)

C STREET "A" PUBLIC ROAD SECTION

D STREET "B" PUBLIC ROAD SECTION



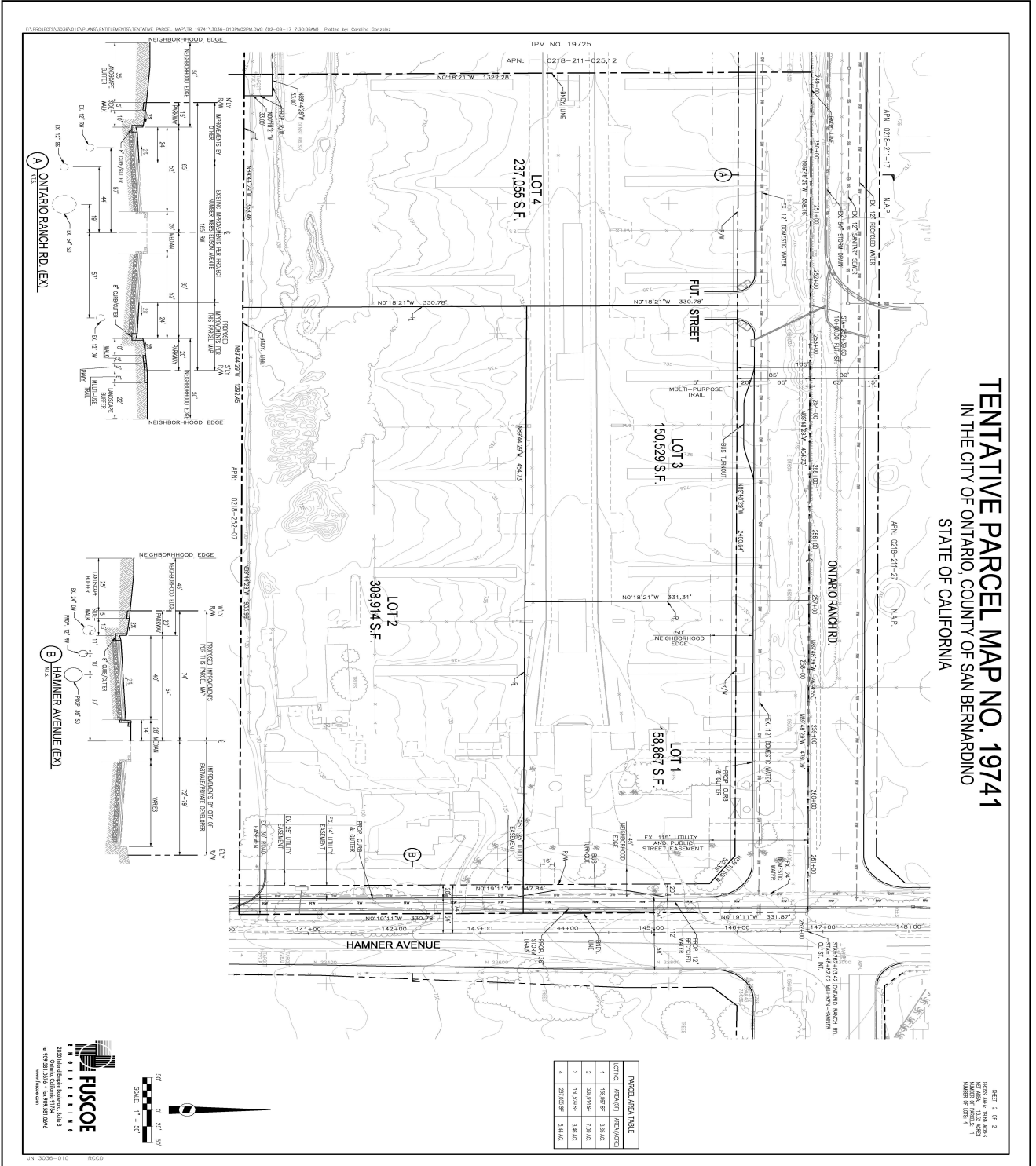
PARCEL AREA TABLE	
LOT 3	416,832 S.F.
LOT 4	394,266 S.F.
TOTAL	811,098 S.F.

LETTER LOT TABLE	
LETTER	AREA (S.F.)
B	416,832
C	394,266
TOTAL	811,098

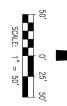
Sheet 1 of 1
 89000 4400 410 0000
 NUMBER OF SHEETS
 NUMBER OF LOTS: 5

EXHIBIT "E" TO DEVELOPMENT AGREEMENT Tentative Parcel 19741 (Continued)

TENTATIVE PARCEL MAP NO. 19741 IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO STATE OF CALIFORNIA



LOT NO.	AREA (S.F.)	AREA (AC)
1	158,987	3.602
2	308,914	7.082
3	150,529	3.442
4	237,055	5.442



DATE: 11/11/10
DRAWN BY: J. B. BROWN
CHECKED BY: J. B. BROWN
SCALE: AS SHOWN

EXHIBIT "F-1"

TO DEVELOPMENT AGREEMENT

Required Infrastructure Improvements

TENTATIVE PARCEL MAP NO. 19725

IN THE CITY OF ONTARIO IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA

ONTARIO GATEWAY INFRASTRUCTURE EXHIBIT F

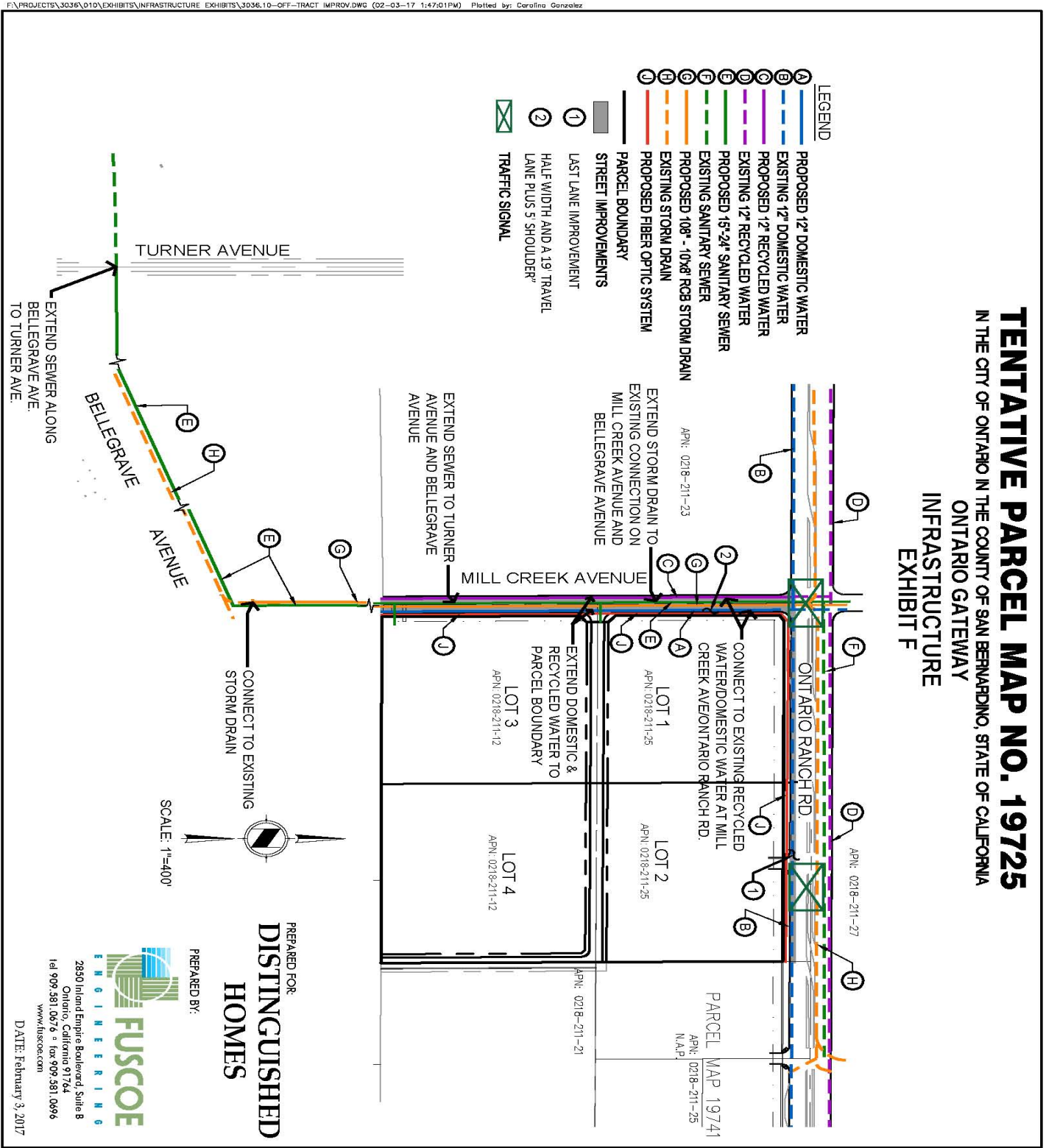
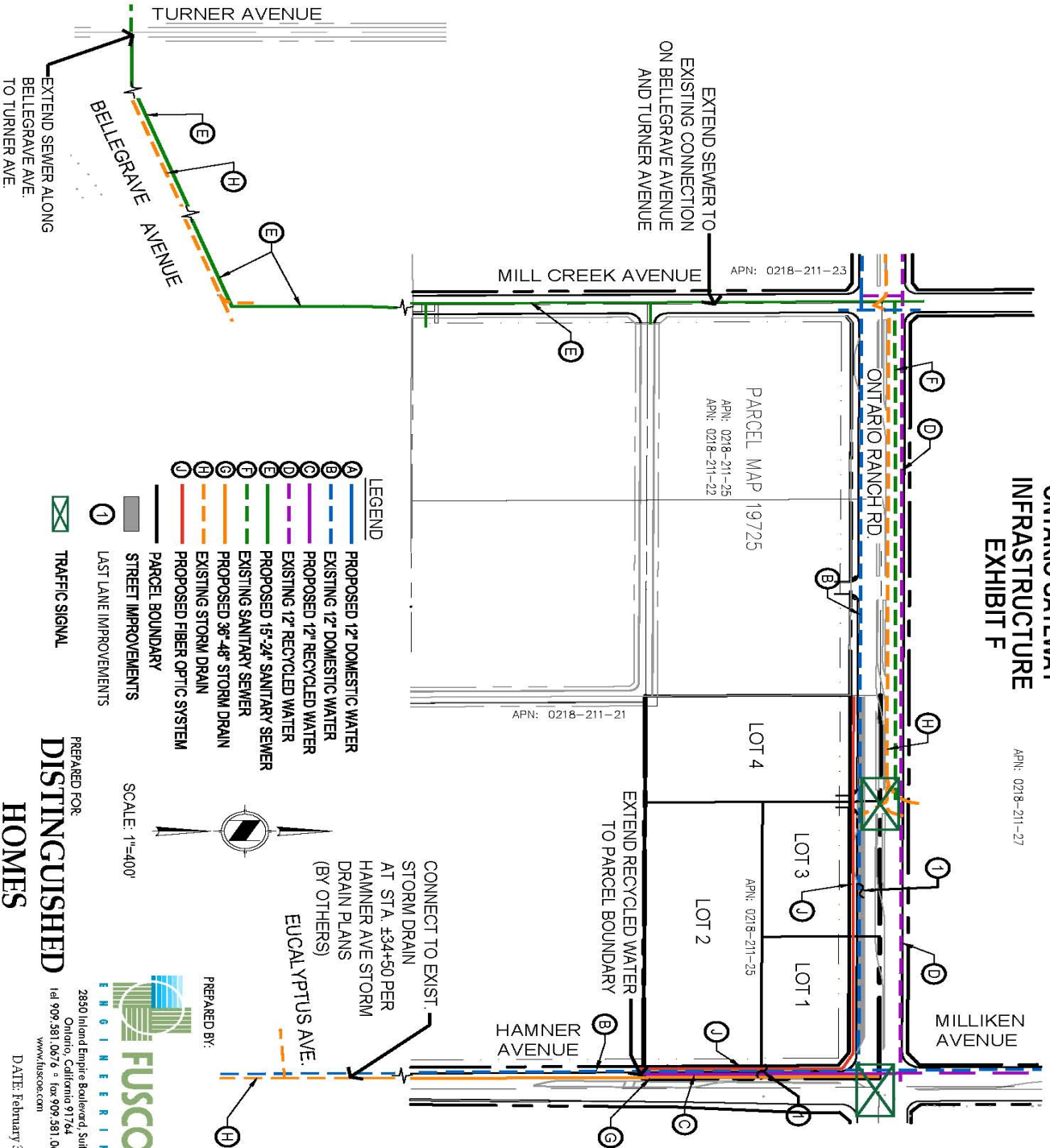


EXHIBIT "F-2"
TO DEVELOPMENT AGREEMENT
Required Infrastructure Improvements (Continued)

F:\PROJECTS\3036\010\EXHIBITS\INFRASTRUCTURE EXHIBITS\3036.10-OFF-TRACT IMPROV.DWG (02-03-17 2:12:50PM) Plotted by: Carolina Gonzalez

TENTATIVE PARCEL MAP NO. 19741
 IN THE CITY OF ONTARIO IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA
ONTARIO GATEWAY
INFRASTRUCTURE
EXHIBIT F

APN: 0218-211-27



- LEGEND**
- ④ PROPOSED 12" DOMESTIC WATER
 - ③ EXISTING 12" DOMESTIC WATER
 - ② PROPOSED 12" RECYCLED WATER
 - ① EXISTING 12" RECYCLED WATER
 - ⑩ PROPOSED 15'-24" SANITARY SEWER
 - ⑨ EXISTING SANITARY SEWER
 - ⑧ PROPOSED 36"-48" STORM DRAIN
 - ⑦ EXISTING STORM DRAIN
 - ⑥ PROPOSED FIBER OPTIC SYSTEM
 - ⑤ EXISTING FIBER OPTIC SYSTEM
 - ① LAST LANE IMPROVEMENTS
 - ② STREET IMPROVEMENTS
 - ③ PARCEL BOUNDARY
 - ④ TRAFFIC SIGNAL



PREPARED FOR:
DISTINGUISHED HOMES

PREPARED BY:
FUSCOE ENGINEERING
 2850 Inland Empire Boulevard, Suite B
 Ontario, California 91764
 Tel 909.381.0076 • fax 909.381.0046
 www.fuscoe.com

DATE: February 3, 2017



PLANNING COMMISSION STAFF REPORT

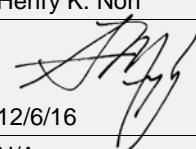
February 28, 2017

SUBJECT: An Amendment to The Avenue Specific Plan (File No. PSPA16-004) to change the Land Use Designations for Planning Area 7 from Low Density Residential (2.1 to 5.0 DU/AC) to Low-Medium Density Residential (5.1 to 11.0 DU/AC) and to change Planning Area 11 from Medium Density Residential (11.1 to 25 DU/AC) to Low-Medium Density Residential (5.1 to 11.0 DU/AC) to allow for the transfer of 155 units from Planning Area 11 (225 DU) to Planning Area 7 (287 DU). The project sites are located at the northeast corner of Archibald Avenue and Ontario Ranch Road (Planning Area 7) and the southwest corner of Ontario Ranch Road and New Haven Drive (Planning Area 11). APNs: 0218-201-18; 0218-201-39; 0218-201-42 and 0218-201-43; **submitted by Brookcal Ontario, LLC. City Council Action is required.**

PROPERTY OWNER: Brookcal Ontario, LLC

RECOMMENDED ACTION: That the Planning Commission recommend to the City Council approval of File No. PSPA16-004, pursuant to the facts and reasons contained in the staff report and attached resolution, and subject to the conditions of approval contained in the attached departmental reports.

PROJECT SETTING: The project sites are comprised of 62.3 acres of land located at northeast corner of Archibald Avenue and Ontario Ranch Road (Planning Area 7) and the southwest corner of Ontario Ranch Road and New Haven Drive (Planning Area 11), within the Low Density Residential (Planning Area 7) and Medium Density Residential (Planning Area 11) districts of The Avenue Specific Plan, and is depicted in **Figure 1: Project Location**, below. The project sites are currently vacant.

Case Planner:	Henry K. Noh	Hearing Body	Date	Decision	Action
Planning Director Approval:		DAB			
Submittal Date:	12/6/16	ZA			
Hearing Deadline:	N/A	PC	2/28/17		Recommend
		CC			Final

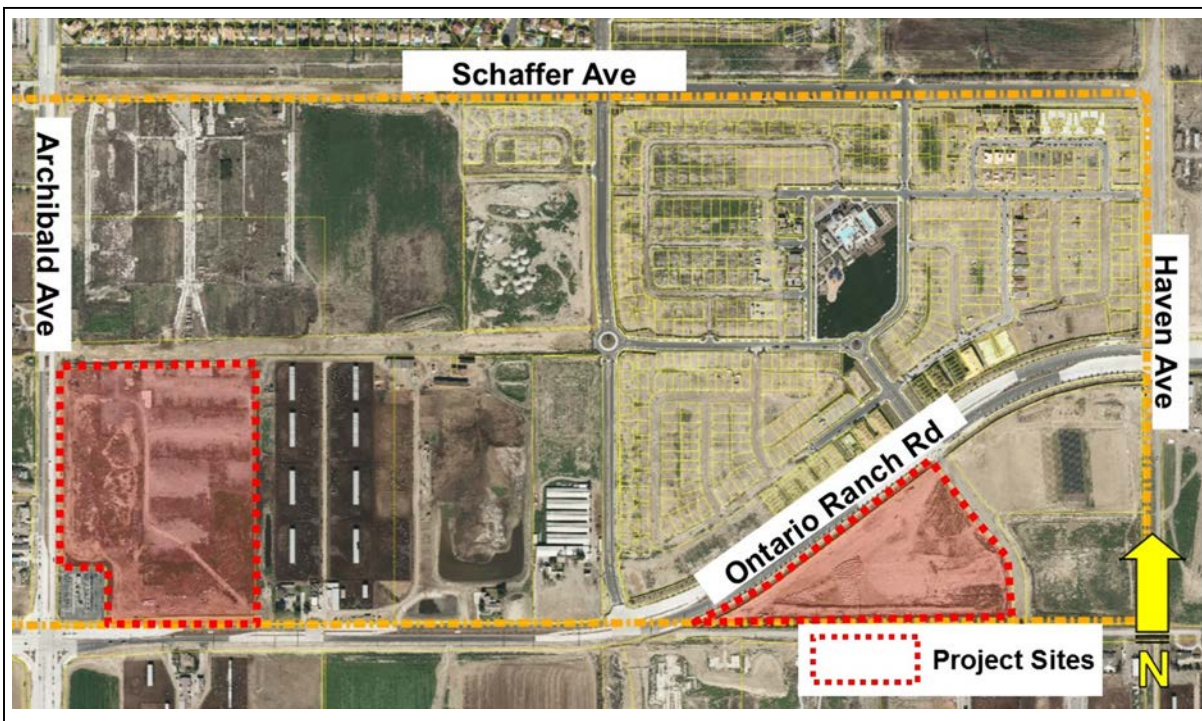


Figure 1: Project Location

PROJECT ANALYSIS:

[1] Background — The Avenue Specific Plan and Environmental Impact Report (EIR) were approved by the City Council on December 19, 2006. The Avenue Specific Plan establishes the land use designations, development standards, and design guidelines for 568 acres, which includes the potential development of 2,326 dwelling units and approximately 174,000 square feet of commercial.

On June 17, 2014, the City Council approved an Amendment (File No. PSPA13-003) to The Avenue Specific Plan to bring the land use designations of Planning Areas 4, 10A, 10B and 11 into compliance with the Policy Plan (General Plan) Land Use Map. In addition, the Amendment increased the number of residential units to 2,875 and decreased the commercial square footage to 130,000 square feet to be consistent with the Policy Plan.

The Applicant, Brookcal Ontario, LLC, is currently in the process of developing Planning Area 11 of The Avenue Specific Plan with 163 multi-family townhome/rowtown units (File Nos. PDEV16-052 and PMTT16-020) and 62 single-family cluster units (File No. PMTT17-001) for a total of 225 dwelling units. The Avenue Specific Plan allows a total of 380 dwelling units within Planning Area 11, resulting in an excess of 155 dwelling units. Brookcal Ontario, LLC, is proposing to transfer the 155 dwelling units to their property within Planning Area 7. The Avenue Specific Plan allows for the administrative transfer of up to 15% of total units between Planning Areas. The proposed transfer of 155 dwelling

units from Planning Area 11 to Planning Area 7 results in a transfer of 40%, therefore requiring an amendment to The Avenue Specific Plan. To accommodate the transfer of units within both Planning Area 7 and 11, the land use designations within those Planning Areas are proposed to be change to Low-Medium Residential (5.1 to 11.0 DU/AC) as part of this Amendment.

[2] The Avenue Specific Plan Amendment — The Avenue Specific Plan Amendment (File No. PSPA16-004) proposes the following:

[a] Transfer 155 units from Planning Area 11 (225 DU) to Planning Area 7 (287 DU). The overall residential dwelling units within The Avenue Specific Plan of 2,875 will not be increased.

[b] Change the land use designation for Planning Area 7 from Low Density Residential (2.1 to 5.0 DU/AC) to Low-Medium Density Residential (5.1 to 11.0 DU/AC). The Low-Medium Density Residential land use designation would allow for the transfer of the 155 dwelling units and provide the appropriate density and zoning requirements for Planning Area 7. In keeping with the current multi-family development along the north and south side of Ontario Ranch Road (between Turner Avenue and Haven Avenue), the land use change would continue this development pattern and allow for higher density multi-family units along the north side of Ontario Ranch Road. In addition, the higher density residential provides a buffer and transition between Ontario Ranch Road and the existing SCE substation, located at the northeast corner of Ontario Ranch Road and Archibald Avenue, and the lower density residential neighborhoods to the north.

[c] Change Planning Area 11 from Medium Density Residential (11.1 to 25 DU/AC) to Low-Medium Density Residential (5.1 to 11.0 DU/AC). With the transfer of 155 dwelling units to Planning Area 7, the total maximum dwelling units allowed within Planning Area 11 would be 225, with an overall density of 6.7 dwelling units per acre. The overall density of 6.7 dwelling units per acre will make Planning Area 11 consistent with the Low-Medium Density Residential density range of 5.1 to 11.0 dwelling units per acre.

The changes to The Avenue Specific Plan Land Use Map and Land Use Development Table are illustrated on Exhibits “A” and “B”. All deletions are identified with a strikethrough and all additions have been heightened in red.

COMPLIANCE WITH THE ONTARIO PLAN: The proposed project is consistent with the principles, goals and policies contained within the Vision, Governance, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan (TOP). More specifically, the goals and policies of TOP that are furthered by the proposed project are as follows:

[1] City Council Goals.

- Invest in the Growth and Evolution of the City's Economy
- Operate in a Businesslike Manner
- Focus Resources in Ontario's Commercial and Residential Neighborhoods
- Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in the New Model Colony

[2] Vision.

Distinctive Development:

- Commercial and Residential Development
 - Development quality that is broadly recognized as distinctive and not exclusively tied to the general suburban character typical of much of Southern California.

[3] Governance.

Decision Making:

- Goal G1: Sustained decision-making that consistently moves Ontario towards its Vision by using The Ontario Plan as a framework for assessing choices.
 - G1-2 Long-term Benefit. We require decisions to demonstrate and document how they add value to the community and support the Ontario Vision

[4] Policy Plan (General Plan)

Land Use Element:

- Goal LU1: A community that has a spectrum of housing types and price ranges that match the jobs in the City and that make it possible for people to live and work in Ontario and maintain a quality of life.
 - LU1-1 Strategic Growth. We concentrate growth in strategic locations that help create place and identity, maximize available and planned infrastructure, and foster the development of transit.
 - LU1-6 Complete Community: We incorporate a variety of land uses and building types in our land use planning efforts that result in a complete community where residents at all stages of life, employers, workers and visitors have a wide spectrum of choices of where they can live, work, shop and recreate within Ontario. (Refer to Complete Community Section of Community Economics Element).

- Goal LU2: Compatibility between a wide range of uses.

Housing Element:

- Goal H2: Diversity of types of quality housing that are affordable to a range of household income levels, accommodate changing demographics, and support and reinforce the economic sustainability of Ontario.

- H2-4 New Model Colony. We support a premier lifestyle community in the New Model Colony distinguished by diverse housing, highest design quality, and cohesive and highly amenitized neighborhoods.

Community Economics Element:

- Goal CE1: A complete community that provides for all incomes and stages of life.

- CE1-6 Diversity of Housing. We collaborate with residents, housing providers and the development community to provide housing opportunities for every stage of life; we plan for a variety of housing types and price points to support our workforce, attract business and foster a balanced community.

- Goal CE2: A City of distinctive neighborhoods, districts, and corridors, where people choose to be.

- CE2-2 Development Review. We require those proposing new development and redevelopment to demonstrate how their projects will create appropriately unique, functional and sustainable places that will compete well with their competition within the region.

- CE2-4 Protection of Investment. We require that new development and redevelopment protect existing investment by providing architecture and urban design of equal or greater quality.

- CE2-5 Private Maintenance. We require adequate maintenance, upkeep, and investment in private property because proper maintenance on private property protects property values.

Community Design Element:

- Goal CD1: A dynamic, progressive city containing distinct neighborhoods and commercial districts that foster a positive sense of identity and belonging among residents, visitors, and businesses.

➤ CD1-1 City Identity. We take actions that are consistent with the City being a leading urban center in Southern California while recognizing the diverse character of our existing viable neighborhoods.

➤ CD1-2 Growth Areas. We require development in growth areas to be distinctive and unique places within which there are cohesive design themes.

➤ CD1-3 Neighborhood Improvement. We require viable existing residential and non-residential neighborhoods to be preserved, protected, and enhanced in accordance with our land use policies.

▪ Goal CD2: A high level of design quality resulting in public spaces, streetscapes, and developments that are attractive, safe, functional and distinct.

➤ CD2-2 Neighborhood Design. We create distinct residential neighborhoods that are functional, have a sense of community, emphasize livability and social interaction, and are uniquely identifiable places through such elements as:

- A pattern of smaller, walkable blocks that promote access, activity and safety;
- Variable setbacks and parcel sizes to accommodate a diversity of housing types;
- Traffic calming measures to slow traffic and promote walkability while maintaining acceptable fire protection and traffic flows;
- Floor plans that encourage views onto the street and de-emphasize the visual and physical dominance of garages (introducing the front porch as the “outdoor living room”), as appropriate; and
- Landscaped parkways, with sidewalks separated from the curb.

➤ CD2-13 Entitlement Process. We work collaboratively with all stakeholders to ensure a high degree of certainty in the efficient review and timely processing of all development plans and permits.

HOUSING ELEMENT COMPLIANCE: The project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and the proposed project is consistent with the number of dwelling units (512) and density (8.22 DU/AC) specified in the Available Land Inventory.

AIRPORT LAND USE COMPATIBILITY PLAN (ALUCP) COMPLIANCE: The project site is located within the Airport Influence Area of the Ontario International Airport (ONT), and has been found to be consistent with the policies and criteria set forth within the ALUCP for ONT.

ENVIRONMENTAL REVIEW: The environmental impacts of this project were previously reviewed in conjunction with The Avenue Specific Plan Amendment (PSPA13-003), for which an addendum to The Avenue Specific Plan EIR (SCH# 2005071109) was adopted by the City Council on June 17, 2014. This Application introduces no new significant environmental impacts. All previously adopted mitigation measures are be a condition of project approval and are incorporated herein by reference.

CONDITIONS OF APPROVAL: See attached department reports.

Exhibit A: Proposed The Avenue Specific Plan Land Use Map

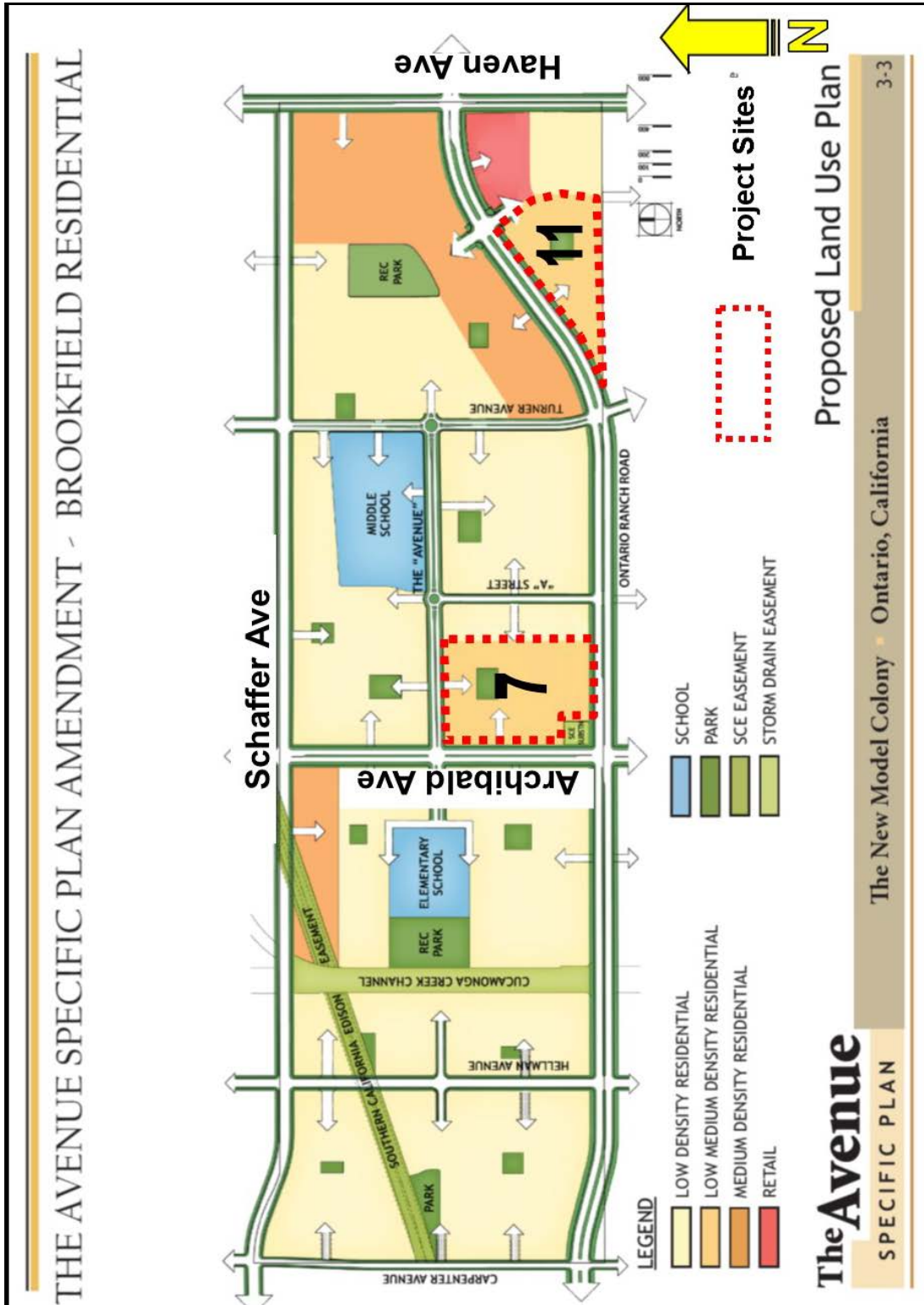


Exhibit B: Proposed The Avenue Specific Plan Land Use Table

THE AVENUE SPECIFIC PLAN AMENDMENT / BROOKFIELD RESIDENTIAL

Proposed

Table 2 - Statistical Analysis

Former Subarea	Planning Area	Gross Acres	Excluded from Gross	Net Res. Acres	Homes	Density (5)	Comm. SF	Use
17	1A	11.1	-	11.1	51	4.6		LDR
17	1B	33.5	5.4 (1)	28.1	127	4.5		LDR
17	1C	2.2	-	2.2	5	2.3		LDR
17	2A	32	-	32	147	4.6		LDR
17	2B	12.5	-	12.5	58	4.6		LDR
17	3A	21.7	2.6 (1)	19.1	86	4.5		LDR
17	3B	21.5	-	21.5	97	4.5		LDR
18	4	19.9	-	19.9	218	11		MDR
18	5	82.6	10 (3)	72.6	334	4.6		LDR/ O.S./ Elem. School
18	6A	49.9		49.9	230	4.6		LDR
18	6B	10	10 (4)	n/a				Middle School (4)
18	7	28.9		28.9	287 132	9.5 4.6	LMDR	LDR
18	8A	39.9		39.9	180	4.5		LDR
18	8B	9.7		9.7	44	4.5		LDR
18	9A	10.6		10.6	20	2.0		LDR
18	9B	10.0	10.0 (4)	n/a				School (4)
12	10A	114.7		114.7	766	6.7		LDR/MDR
	10B	10(2)	10(2)	n/a			130,680	Retail
24	11	33.4		33.4	225 380	6.7 11.4	LMDR	MDR
Cucamonga Creek		12.8	12.8	n/a				
SCE	7	1.2	1.2	n/a				
TOTAL		568.1	62	506.1	2,875		130,680	

- (1) SCE Easement
- (2) Retail Site
- (3) Elementary School
- (4) Half of 20-acre Middle School
- (5) Density is measured to c/1 of arterial streets per City standard for NMC entitlements

Note: All acreages approximate - exact acreages will be defined through tract map surveys.

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, RECOMMENDING CITY COUNCIL APPROVAL OF FILE NO. PSPA16-004, AN AMENDMENT TO THE AVENUE SPECIFIC PLAN (FILE NO. PSPA16-004) TO CHANGE THE LAND USE DESIGNATIONS FOR PLANNING AREA 7 FROM LOW DENSITY RESIDENTIAL (2.1 TO 5.0 DU/AC) TO LOW-MEDIUM DENSITY RESIDENTIAL (5.1 TO 11.0 DU/AC) AND TO CHANGE PLANNING AREA 11 FROM MEDIUM DENSITY RESIDENTIAL (11.1 TO 25 DU/AC) TO LOW MEDIUM-DENSITY RESIDENTIAL (5.1 TO 11.0 DU/AC) TO ALLOW FOR THE TRANSFER OF 155 UNITS FROM PLANNING AREA 11 (225 DU) TO PLANNING AREA 7 (287 DU). THE PROJECT SITES ARE LOCATED AT THE NORTHEAST CORNER OF ARCHIBALD AVENUE AND ONTARIO RANCH ROAD (PLANNING AREA 7) AND THE SOUTHWEST CORNER OF ONTARIO RANCH ROAD AND NEW HAVEN DRIVE (PLANNING AREA 11), AND MAKING FINDINGS IN SUPPORT THEREOF—APNS: 0218-201-18; 0218-201-39; 0218-201-42 AND 0218-201-43.

WHEREAS, Brookcal Ontario, LLC ("Applicant") has filed an Application for the approval of an Amendment to The Avenue Specific Plan, File No. PSPA16-004, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to 62.3 acres of land generally located at the northeast corner of Archibald Avenue and Ontario Ranch Road (Planning Area 7) and the southwest corner of Ontario Ranch Road and New Haven Drive (Planning Area 11), within the Low Density Residential (Planning Area 7) and Medium Density Residential (Planning Area 11) districts of The Avenue Specific Plan, and are presently vacant; and

WHEREAS, on December 19, 2006, the City Council certified an EIR (SCH#2005071109) and a related Mitigation Monitoring and Reporting Program for The Avenue Specific Plan (File No. PSP05-003); and

WHEREAS, on June 17, 2014, the City Council approved an Amendment to The Avenue Specific Plan (File No. PSPA13-003) and approved an Addendum to The Avenue Specific Plan EIR (SCH#2005071109); and

WHEREAS, the Specific Plan Amendment was submitted in conjunction with Tentative Parcel Maps (File No. PMTT16-020 and PMTT17-001) and Development Plan (File No. PDEV16-052), which are necessary to facilitate the proposed Project; and

WHEREAS, The Avenue Specific Plan Amendment is required to amend the Land Use Designations of Planning Area 7 and Planning Area 11 to Low-Medium Density

Residential and will transfer 155 dwelling units from Planning Area 11 to Planning Area 7, which will accommodate the appropriate density and zoning requirements for both Planning Areas, which are necessary to facilitate the proposed Project; and

WHEREAS, the Project is located within the Airport Influence Area of Ontario International Airport (ONT), which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and is subject to, and must be consistent with, the policies and criteria set forth in the ONT Airport Land Use Compatibility Plan (ALUCP), which applies only to jurisdictions within San Bernardino County, and addresses the noise, safety, airspace protection, and overflight impacts of current and future airport activity; and

WHEREAS, the Application is a project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA"); and

WHEREAS, the environmental impacts of this project were previously reviewed in conjunction with The Avenue Specific Plan Amendment (PSPA13-003), for which an addendum to The Avenue Specific Plan EIR (SCH# 2005071109) was adopted by the City Council on June 17, 2014, and this Application introduces no new significant environmental impacts; and

WHEREAS, on February 28, 2017, the Planning Commission of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED, AND RESOLVED by the Planning Commission of the City of Ontario, as follows:

SECTION 1. Environmental Determination and Findings. As the recommending body for the Project, the Planning Commission has reviewed and considered the information contained in the administrative record for the Project. Based upon the facts and information contained in the administrative record, including all written and oral evidence presented to the Planning Commission, the Planning Commission finds as follows:

a. The environmental impacts of this project were previously reviewed in conjunction with The Avenue Specific Plan Amendment (PSPA13-003), for which a(n) addendum to The Avenue Specific Plan EIR (SCH# 2005071109) was adopted by the City Council on June 17, 2014; and

b. The previous addendum to The Avenue Specific Plan EIR (SCH# 2005071109) contains a complete and accurate reporting of the environmental impacts associated with the Project; and

c. The City's "Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed. This Application introduces no new significant environmental impacts; and

d. All previously adopted mitigation measures shall be a condition of project approval, as they are applicable to the Project, and are incorporated herein by this reference; and

e. The previous addendum to The Avenue Specific Plan EIR (SCH# 2005071109) contains a complete and accurate reporting of the environmental impacts associated with the Project, and reflects the independent judgment of the Planning Commission; and

f. There is no substantial evidence in the administrative record supporting a fair argument that the project may result in significant environmental impacts; and

SECTION 2. Housing Element Consistency. Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as the recommending body for the Project, the Planning Commission finds that based upon the facts and information contained in the Application and supporting documentation, at the time of Project implementation, the project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and the proposed project is consistent with the number of dwelling units (512) and density (8.22 DU/AC) specified in the Available Land Inventory.

SECTION 3. Airport Land Use Compatibility Plan (ALUCP) Consistency. As the recommending body for the Project, the Planning Commission has reviewed and considered the facts and information contained in the Application and supporting documentation, and finds that, at the time of Project implementation, the Project will be consistent with the policies and criteria set forth within the ONT ALUCP.

SECTION 4. Concluding Facts and Reasons. Based upon the substantial evidence presented to the Planning Commission during the above-referenced hearing, and upon the specific findings set forth in Section 1 through 3 above, the Planning Commission hereby concludes as follows:

a. The proposed Specific Plan, or amendment thereto, is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan. The proposed Amendment to The Avenue Specific Plan will amend the Land Use Designations of Planning Area 7 and Planning Area 11 to Low-Medium Density Residential and will transfer 155 dwelling units from Planning Area 11 to Planning Area 7, which will accommodate the appropriate density and zoning requirements for both Planning Areas (see **Exhibits “A” and “B” for Changes to The Avenue Specific Plan Land Use Map and Land Use Development Table**). With the proposed amendments to The Avenue Specific Plan, the Planning Areas will be in conformance with The Ontario Plan (TOP) Policy Plan Land Use Plan and will comply with the Policy Plan goals and policies applicable to the Specific Plan.

b. The proposed Specific Plan, or amendment thereto, would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City. The proposed amendment to The Avenue Specific Plan will not be detrimental to the public interest, health, safety, convenience, or general welfare of the City because it will accommodate the appropriate density and zoning requirements for both Planning Areas 7 and 11 that will facilitate the development of both areas. In addition, the high density residential provides a buffer and transitions from high density residential uses to low density residential neighborhoods along Ontario Ranch Road and the existing SCE substation that is located at the northeast corner of Ontario Ranch Road and Archibald Avenue. The proposed amendment will be consistent with The Ontario Plan (TOP) Policy Plan Land Use Plan and will comply with the Policy Plan goals and policies. The proposed amendment will be consistent with the following Policy Plan (General Plan) goals and policies:

- Goal CE1: A complete community that provides for all incomes and stages of life.

- CE1-6 Diversity of Housing. We collaborate with residents, housing providers and the development community to provide housing opportunities for every stage of life; we plan for a variety of housing types and price points to support our workforce, attract business and foster a balanced community.

- Goal CE2: A City of distinctive neighborhoods, districts, and corridors, where people choose to be.

- Goal CD1: A dynamic, progressive city containing distinct neighborhoods and commercial districts that foster a positive sense of identity and belonging among residents, visitors, and businesses.

- CD1-2 Growth Areas. We require development in growth areas to be distinctive and unique places within which there are cohesive design themes.

- Goal CD2: A high level of design quality resulting in public spaces, streetscapes, and developments that are attractive, safe, functional and distinct.

c. In the case of an application affecting specific properties, the proposed Specific Plan, or amendment thereto, will not adversely affect the harmonious relationship with adjacent properties and land uses. The project sites are located in an area that will developed with residential land uses that will be complimentary to the surrounding area. In keeping with the current multi-family development along the north and south side of Ontario Ranch Road (Between Turner Avenue and Haven Avenue), the land use change would continue this development pattern and allow for higher density multi-family units along the north side of Ontario Ranch Road. In addition, the high density residential provides a buffer along Ontario Ranch Road that transitions from high density residential uses to low density residential neighborhoods.

d. In the case of an application affecting specific properties, the subject site is physically suitable, including, but not limited to, parcel size, shape, access, and availability of utilities, for the request and anticipated development. The proposed amendment to The Avenue Specific Plan will amend the Land Use Designations of Planning Area 7 and Planning Area 11 to Low-Medium Density and will transfer 155 dwelling units for Planning Area 11 to Planning Area 7, which will accommodate the appropriate density and zoning requirements for both Planning Areas. With the approval of the proposed amendment, the proposed project areas will be developed with adequate lot size, access and utilities to serve the project.

SECTION 5. Planning Commission Action. Based upon the findings and conclusions set forth in Sections 1 through 4 above, the Planning Commission hereby RECOMMENDS APPROVAL to the City Council of the herein described Application subject to each and every condition set forth in the Department Conditions of Approval, attached hereto and incorporated herein by this reference.

SECTION 6. Indemnification. The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void, or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action, or proceeding, and the City of Ontario shall cooperate fully in the defense.

SECTION 7. Custodian of Records. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 8. Certification to Adoption. The Secretary shall certify to the adoption of the Resolution.

The Secretary Pro Tempore for the Planning Commission of the City of Ontario shall certify as to the adoption of this Resolution.

I hereby certify that the foregoing Resolution was duly and regularly introduced, passed and adopted by the Planning Commission of the City of Ontario at a regular meeting thereof held on the 28th day of February 2017, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.

Jim Willoughby
Planning Commission Chairman

ATTEST:

Scott Murphy
Planning Director/Secretary of Planning
Commission

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, Marci Callejo, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC17-[insert #] was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on February 28, 2017, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marci Callejo
Secretary Pro Tempore

Exhibit A: Proposed The Avenue Specific Plan Land Use Map

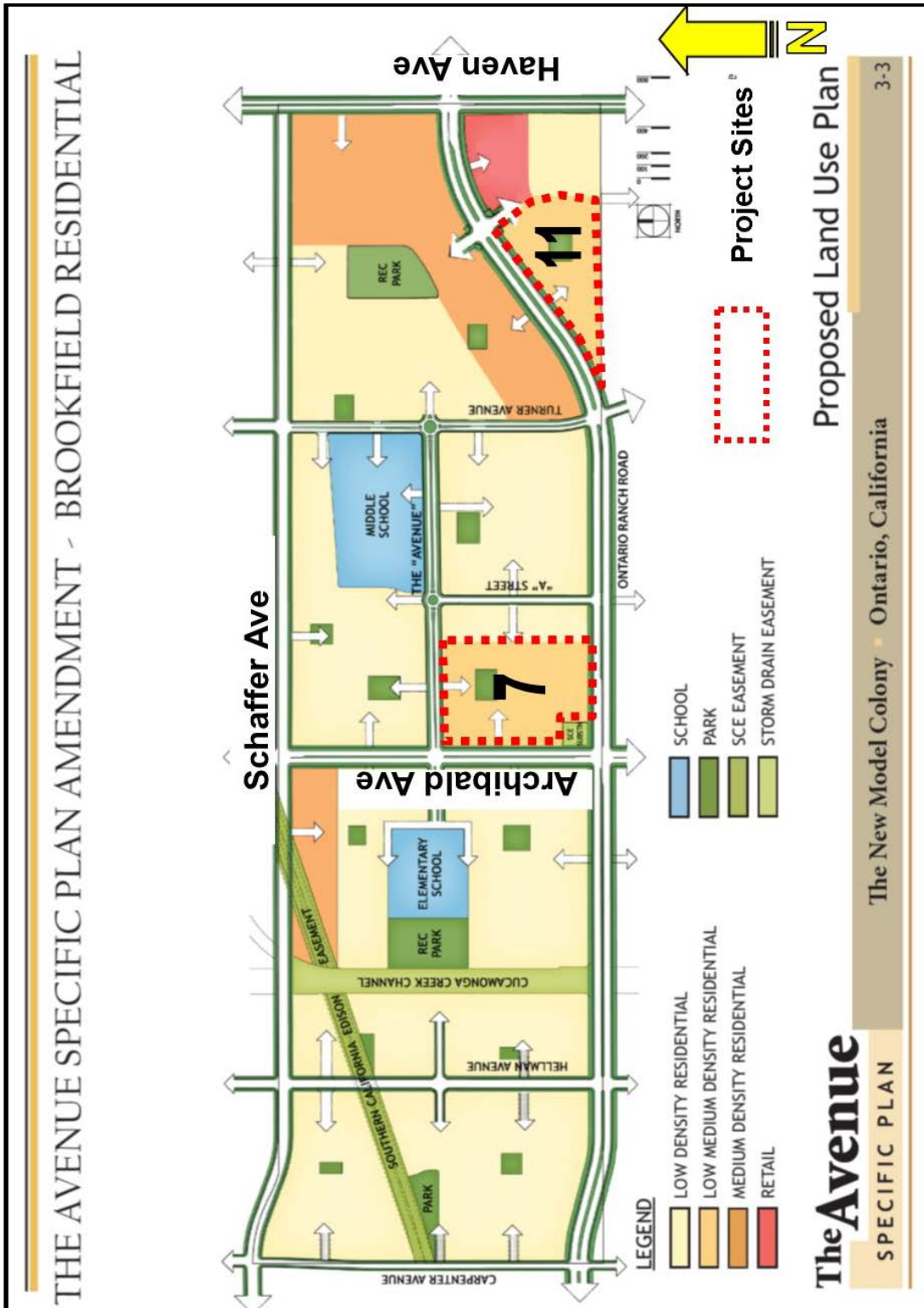


Exhibit B: Proposed The Avenue Specific Plan Land Use Table

THE AVENUE SPECIFIC PLAN AMENDMENT / BROOKFIELD RESIDENTIAL

Proposed

Table 2 - Statistical Analysis

Former Subarea	Planning Area	Gross Acres	Excluded from Gross	Net Res. Acres	Homes	Density (5)	Comm. SF	Use
17	1A	11.1	-	11.1	51	4.6		LDR
17	1B	33.5	5.4 (1)	28.1	127	4.5		LDR
17	1C	2.2	-	2.2	5	2.3		LDR
17	2A	32	-	32	147	4.6		LDR
17	2B	12.5	-	12.5	58	4.6		LDR
17	3A	21.7	2.6 (1)	19.1	86	4.5		LDR
17	3B	21.5	-	21.5	97	4.5		LDR
18	4	19.9	-	19.9	218	11		MDR
18	5	82.6	10 (3)	72.6	334	4.6		LDR/ O.S./ Elem. School
18	6A	49.9		49.9	230	4.6		LDR
18	6B	10	10 (4)	n/a				Middle School (4)
18	7	28.9		28.9	287 132	9.5 4.6	LMDR	LDR
18	8A	39.9		39.9	180	4.5		LDR
18	8B	9.7		9.7	44	4.5		LDR
18	9A	10.6		10.6	20	2.0		LDR
18	9B	10.0	10.0 (4)	n/a				School (4)
12	10A	114.7		114.7	766	6.7		LDR/MDR
	10B	10(2)	10(2)	n/a			130,680	Retail
24	11	33.4		33.4	225 380	6.7 11.4	LMDR	MDR
Cucamonga Creek		12.8	12.8	n/a				
SCE	7	1.2	1.2	n/a				
TOTAL		568.1	62	506.1	2,875		130,680	

- (1) SCE Easement
- (2) Retail Site
- (3) Elementary School
- (4) Half of 20-acre Middle School
- (5) Density is measured to c/1 of arterial streets per City standard for NMC entitlements

Note: All acreages approximate - exact acreages will be defined through tract map surveys.

The Avenue

ONTARIO, CALIFORNIA

The New Model Colony

SPECIFIC PLAN



City of Ontario
Planning Department
303 East B Street
Ontario, California 91764
Phone: 909.395.2036
Fax: 909.395.2420

Planning Department Land Development Division Conditions of Approval

Meeting Date: February 28, 2017

File No: PSPA16-004

Related Files: N/A

Project Description: An Amendment to The Avenue Specific Plan (File No. PSPA16-004) to change the Land Use Designations for Planning Area 7 from Low Density Residential (2.1 to 5.0 DU/AC) to Low-Medium Density Residential (5.1 to 11.0 DU/AC) and to change Planning Area 11 from Medium Density Residential (11.1 to 25 DU/AC) to Low Medium-Density Residential (5.1 to 11.0 DU/AC) to allow for the transfer of 155 units from Planning Area 11 (225 DU) to Planning Area 7 (287 DU). The project sites are located at the northeast corner of Archibald Avenue and Ontario Ranch Road (Planning Area 7) and the southwest corner of Ontario Ranch Road and New Haven Drive (Planning Area 11). APNs: 0218-201-18; 0218-201-39; 0218-201-42 and 0218-201-43; **submitted by Brookcal Ontario, LLC.**

Prepared By: Henry K. Noh, Senior Planner
Phone: 909.395.2429 (direct)
Email: hnoh@ontarioca.gov

The Planning Department, Land Development Section, conditions of approval applicable to the above-described Project, are listed below. The Project shall comply with each condition of approval listed below:

1.0 Standard Conditions of Approval. The project shall comply with the *Standard Conditions for New Development*, adopted by City Council Resolution No. 2010-021 on March 16, 2010. A copy of the *Standard Conditions for New Development* may be obtained from the Planning Department or City Clerk/Records Management Department.

2.0 Special Conditions of Approval. In addition to the *Standard Conditions for New Development* identified in condition no. 1.0, above, the project shall comply with the following special conditions of approval:

2.1 Specific Plan Amendment. The following shall be submitted to the Planning Department within 30 days following City Council approval of the Specific Plan Amendment:

- (a) Fifteen copies of the final Specific Plan document;
- (b) One complete, unbound copy of the final Specific Plan document;
- (c) One CD containing a complete Microsoft Word copy of the final Specific Plan document, including all required revisions;
- (d) Five CDs, each containing a complete PDF copy of the final Specific Plan document, including all required revisions; and
- (e) One CD containing a complete electronic website version of the final Specific Plan document, including all required revisions.

2.2 Environmental Review.

(a) The environmental impacts of this project were previously reviewed in conjunction with The Avenue Specific Plan Amendment (PSPA13-003), for which an addendum to The Avenue Specific Plan EIR (SCH# 2005071109) was adopted by the City Council on June 17, 2014. This Application introduces no new significant environmental impacts. The City's "Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed. The previously adopted mitigation measures shall be a condition of project approval, and are incorporated herein by this reference.

2.3 Indemnification. The applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void or annul any approval of the City of Ontario, whether by its City Council, Planning Commission or other authorized board or officer. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

2.4 Additional Fees.

(a) Within 5 days following final application approval, the Notice of Determination (NOD) filing fee shall be provided to the Planning Department. The fee shall be paid by check, made payable to the "Clerk of the Board of Supervisors", which shall be forwarded to the San Bernardino County Clerk of the Board of Supervisors, along with all applicable environmental forms/notices, pursuant to the requirements of the California Environmental Quality Act (CEQA). Failure to provide said fee within the time specified may result in a 180-day extension to the statute of limitations for the filing of a CEQA lawsuit.



CITY OF ONTARIO

MEMORANDUM

TO: "Vacant", Development Director
Scott Murphy, Planning Director (Copy of memo only)
Cathy Wahlstrom, Principal Planner (Copy of memo only)
Charity Hernandez, Economic Development
Kevin Shear, Building Official
Khoi Do, Assistant City Engineer
Carolyn Bell, Landscape Planning Division
Sheldon Yu, Municipal Utility Company
Doug Sorel, Police Department
Art Andres, Deputy Fire Chief/Fire Marshal
Tom Danna, T. E., Traffic/Transportation Manager
Lorena Mejia, Associate Planner, Airport Planning
Steve Wilson, Engineering/NPDES
Bob Gluck, Code Enforcement Director
Jimmy Chang , IT Department
David Simpson, Development/IT (Copy of memo only)

FROM: Henry Noh, Senior Planner

DATE: December 23, 2016

SUBJECT: FILE #: PSPA16-004

Finance Acct#: SA163

The following project has been submitted for review. Please send one (1) copy and email one (1) copy of your DAB report to the Planning Department by **Friday, January 6, 2017**.

- Note:**
- Only DAB action is required
 - Both DAB and Planning Commission actions are required
 - Only Planning Commission action is required
 - DAB, Planning Commission and City Council actions are required
 - Only Zoning Administrator action is required

PROJECT DESCRIPTION: An Amendment to The Avenue Specific to change the Specific Plan Land Use Designation for Planning Area 7 from Low Density Residential (2.1 to 5.0 du/ac) to Low Medium Density Residential (5.1 to 11.0 du/ac) and allow for the transfer of 155 units from Planning Area 11 to Planning Area 7. Planning Area 7 consist of 28.9 acres and located on the northeast corner of Archibald Avenue and Ontario Ranch Road (APN: 0218-201-18).

The plan does adequately address the departmental concerns at this time.

- No comments
- Report attached (1 copy and email 1 copy)
- Standard Conditions of Approval apply

The plan does not adequately address the departmental concerns.

- The conditions contained in the attached report must be met prior to scheduling for Development Advisory Board.

Department: Airport Planning Signature: Lorena Mejia Title: Senior Planner Date: 2/3/17

AIRPORT LAND USE COMPATIBILITY PLANNING

CONSISTENCY DETERMINATION REPORT



Project File No.: PSPA16-004
 Address: The Avenue Specific Plan
 APN: 218-201-18
 Existing Land Use: Vacant/Dairy Land
 Proposed Land Use: PA7 land use change from low density(2.1-5du/ac) to low-medium density (5.1-11du/ac) and allow transfer of 155 units from PA11 to PA7
 Site Acreage: 28.9 Proposed Structure Height: n/a
 ONT-IAC Project Review: N/A
 Airport Influence Area: ONT

Reviewed By: Lorena Mejia
 Contact Info: 909-395-2276
 Project Planner: Henry Noh
 Date: 2/3/2016
 CD No.: 2016-081
 PALU No.: n/a

The project is impacted by the following ONT ALUCP Compatibility Zones:

- | Safety | Noise Impact | Airspace Protection | Overflight Notification |
|-------------------------------|---------------------------------------|---|--|
| <input type="radio"/> Zone 1 | <input type="radio"/> 75+ dB CNEL | <input type="radio"/> High Terrain Zone | <input type="radio"/> Avigation Easement Dedication |
| <input type="radio"/> Zone 1A | <input type="radio"/> 70 - 75 dB CNEL | <input checked="" type="checkbox"/> FAA Notification Surfaces | <input type="radio"/> Recorded Overflight Notification |
| <input type="radio"/> Zone 2 | <input type="radio"/> 65 - 70 dB CNEL | <input type="radio"/> Airspace Obstruction Surfaces | <input checked="" type="checkbox"/> Real Estate Transaction Disclosure |
| <input type="radio"/> Zone 3 | <input type="radio"/> 60 - 65 dB CNEL | <input type="radio"/> Airspace Avigation Easement Area | |
| <input type="radio"/> Zone 4 | | Allowable Height: 200 ft + | |
| <input type="radio"/> Zone 5 | | | |

The project is impacted by the following Chino ALUCP Safety Zones:

- Zone 1 Zone 2 Zone 3 Zone 4 Zone 5 Zone 6
- Allowable Height: _____

CONSISTENCY DETERMINATION

This proposed Project is: Exempt from the ALUCP Consistent Consistent with Conditions Inconsistent

The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plan (ALUCP) for ONT.

1. Remove Airport Influence Area map from page 2-13.

Airport Planner Signature:



CITY OF ONTARIO

MEMORANDUM

TO: "Vacant", Development Director
Scott Murphy, Planning Director (Copy of memo only)
Cathy Wahlstrom, Principal Planner (Copy of memo only)
Charity Hernandez, Economic Development
Kevin Shear, Building Official
Khoi Do, Assistant City Engineer
Carolyn Bell, Landscape Planning Division
Sheldon Yu, Municipal Utility Company
Doug Sorel, Police Department
Art Andres, Deputy Fire Chief/Fire Marshal
Tom Danna, T. E., Traffic/Transportation Manager
Lorena Mejia, Associate Planner, Airport Planning
Steve Wilson, Engineering/NPDES
Bob Gluck, Code Enforcement Director
Jimmy Chang , IT Department
David Simpson, Development/IT (Copy of memo only)

FROM: Henry Noh, Senior Planner

DATE: December 23, 2016

SUBJECT: FILE #: PSPA16-004

Finance Acct#: SA163

The following project has been submitted for review. Please send one (1) copy and email one (1) copy of your DAB report to the Planning Department by **Friday, January 6, 2017**.

- Note:
- Only DAB action is required
 - Both DAB and Planning Commission actions are required
 - Only Planning Commission action is required
 - DAB, Planning Commission and City Council actions are required
 - Only Zoning Administrator action is required

PROJECT DESCRIPTION: An Amendment to The Avenue Specific to change the Specific Plan Land Use Designation for Planning Area 7 from Low Density Residential (2.1 to 5.0 du/ac) to Low Medium Density Residential (5.1 to 11.0 du/ac) and allow for the transfer of 155 units from Planning Area 11 to Planning Area 7. Planning Area 7 consist of 28.9 acres and located on the northeast corner of Archibald Avenue and Ontario Ranch Road (APN: 0218-201-18).

The plan does adequately address the departmental concerns at this time.

- No comments
- Report attached (1 copy and email 1 copy)
- Standard Conditions of Approval apply

The plan does not adequately address the departmental concerns.

- The conditions contained in the attached report must be met prior to scheduling for Development Advisory Board.

Police
Department

Douglas Sorel
Signature

MANAGEMENT ANALYST
Title

1/5/17
Date

CITY OF ONTARIO

MEMORANDUM

TO: PLANNING DEPARTMENT, Henry Noh
FROM: BUILDING DEPARTMENT, Kevin Shear
DATE: January 9, 2017
SUBJECT: PSPA16-004

1. The plan **does** adequately address the departmental concerns at this time.
No comments.

KS:lm



CITY OF ONTARIO

MEMORANDUM

TO: "Vacant", Development Director
Scott Murphy, Planning Director (Copy of memo only)
Cathy Wahlstrom, Principal Planner (Copy of memo only)
Charity Hernandez, Economic Development
Kevin Shear, Building Official
Khoi Do, Assistant City Engineer
Carolyn Bell, Landscape Planning Division
Sheldon Yu, Municipal Utility Company
Doug Sorel, Police Department
Art Andres, Deputy Fire Chief/Fire Marshal
Tom Danna, T. E., Traffic/Transportation Manager
Lorena Mejia, Associate Planner, Airport Planning
Steve Wilson, Engineering/NPDES
Bob Gluck, Code Enforcement Director
Jimmy Chang , IT Department
David Simpson, Development/IT (Copy of memo only)

FROM: Henry Noh, Senior Planner

DATE: December 23, 2016

SUBJECT: FILE #: PSPA16-004

Finance Acct#: SA163

The following project has been submitted for review. Please send one (1) copy and email one (1) copy of your DAB report to the Planning Department by **Friday, January 6, 2017**.

- Note:**
- Only DAB action is required
 - Both DAB and Planning Commission actions are required
 - Only Planning Commission action is required
 - DAB, Planning Commission and City Council actions are required
 - Only Zoning Administrator action is required

PROJECT DESCRIPTION: An Amendment to The Avenue Specific to change the Specific Plan Land Use Designation for Planning Area 7 from Low Density Residential (2.1 to 5.0 du/ac) to Low Medium Density Residential (5.1 to 11.0 du/ac) and allow for the transfer of 155 units from Planning Area 11 to Planning Area 7. Planning Area 7 consist of 28.9 acres and located on the northeast corner of Archibald Avenue and Ontario Ranch Road (APN: 0218-201-18).

- The plan does adequately address the departmental concerns at this time.
 - No comments
 - Report attached (1 copy and email 1 copy)
 - Standard Conditions of Approval apply
- The plan does not adequately address the departmental concerns.
 - The conditions contained in the attached report must be met prior to scheduling for Development Advisory Board.

Department Signature Title Date

Landscape Planning Carolyn Bell Sr. Landscape Planner 1/13/17



CITY OF ONTARIO MEMORANDUM

ENGINEERING DEPARTMENT CONDITIONS OF APPROVAL

DATE: February 1, 2017

PC MEETING DATE: February 28, 2017

PROJECT ENGINEER: Naiim Khoury, Associate Engineer
909.395.2152

PROJECT PLANNER: Henry Noh, Senior Planner
909.395.2429

PROJECT: PSPA16-004; An Amendment to The Avenue Specific Plan to change the land use designation for Planning Area 7 (to a higher density) and Planning Area 11 (to a lower density) and allow the transfer of 155 units from Planning Area 11 to Planning Area 7. No increase in the overall specific plan unit count

APPLICANT: BrookCal Ontario, LLC – Brookfield Residential
LOCATION: Northeast corner of Archibald Avenue and Ontario Ranch Road

Prior to the Planning Commission Hearing, the Land Use Exhibit (Page 3-3) and all applicable Exhibits/figures in The Avenue Specific Plan shall be modified to depict the following: a right-in/right-out (RIRO) access point connecting Haven Avenue to the future commercial development, south of Ontario Ranch Road.

N. Khoury 2-1-17
Naiim Khoury Date
Associate Engineer

[Signature] 2-1-17
Khoi Do, P. E. Date
Assistant City Engineer

c: Khoi Do, P.E., Engineering/Land Development
Stephen Wilson, Engineering/Environmental
Larry Tay, Engineering/Traffic
Sheldon Yu, Ontario Municipal Utility Company



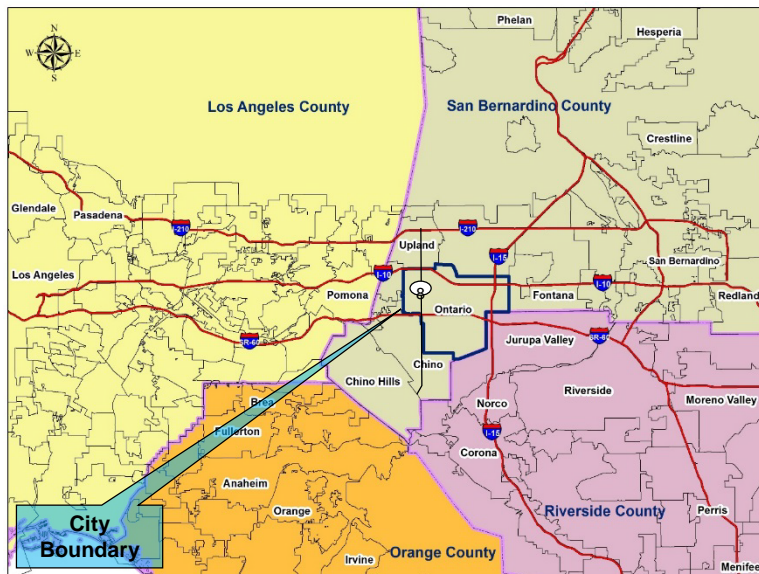
PLANNING COMMISSION STAFF REPORT

February 28, 2017

SUBJECT: A Development Code Amendment revising provisions of Development Code Chapter 5.0 (Zoning and Land Use) pertaining to Accessory Dwelling Units (formerly referred to as Second Dwellings), to incorporate recent changes in the State's Accessory Dwelling Unit laws (as prescribed in Senate Bill 1069, and Assembly Bills 2299 and 2406); **City Initiated.**

RECOMMENDED ACTION: That the Planning Commission recommend that the City Council approve the proposed Development Code Amendment, File No. PDCA16-007, pursuant to the facts and reasons contained in the staff report and attached resolution.

PROJECT SETTING: The proposed Development Code Amendment is of Citywide impact, affecting approximately 50 square miles (31,789 acres) of land, which is generally bordered by Benson Avenue and Euclid Avenue on the west; Interstate 10 Freeway, Eighth Street, and Fourth Street on the north; Etiwanda Avenue and Hamner Avenue on the east; and Merrill Avenue and the San Bernardino County/Riverside County boundary on the south (see map below). The City of Ontario is substantially built-out with residential, commercial, industrial, agricultural, airport, institutional/public, and recreational land uses. According to the California Department of Finance, the City of Ontario's 2015 estimated population is 168,777 persons, and it is ranked the 29th largest city in the State.



Case Planner:	Charles Mercier	Hearing Body	Date	Decision	Action
Planning Director Approval:		DAB			
Submittal Date:	12/16/2016	PC	2/28/2017		Recommend
Hearing Deadline:	N/A	CC-1	3/21/2017		1st Reading
		CC-2	4/4/2017		2nd Reading

PROJECT ANALYSIS: On September 27, 2016, the Governor signed SB 1069 and AB 2299 into law, which amended the State’s Accessory Dwelling Unit law (formerly referred to as “granny flats” or “secondary units”), which took effect on January 1, 2017. Furthermore, on September 28, 2016, the Governor signed AB 2406 into law, which added provisions governing Junior Accessory Dwelling Units, which expands the unit types allowed under the Accessory Dwelling Unit (ADU) laws. The enactment of these three bills necessitates changes to the City’s current Second Dwelling provisions of the Development Code (Section 5.03.355), which is discussed below.

[1] Current Second Dwelling Regulations. Pursuant to State law, the City’s current second unit regulations allow for the construction of a second unit in conjunction with an existing single-family dwelling, which is located within a single-family or multiple-family residential zoning district within the City. Furthermore, the regulations impose standards on second units that control parking, height, setbacks, lot coverage, architectural review, and size, and provides that second units are acted on ministerially, without the need for discretionary review or a hearing. More specifically, second units are subject to the following development standards:

[a] A Second Dwelling must be located on the same lot as an existing single-family dwelling, and may be [i] an independent unit attached to the existing dwelling, [ii] an attached unit sharing living area with the existing dwelling, or [iii] an independent unit that is detached from the existing dwelling;

[b] A Second Dwelling cannot be sold separate from the primary residence, and may be rented;

[c] The total floor area of a Second Dwelling cannot exceed 650 square feet;

[d] Requirements relating to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other zoning requirements applicable to residential construction, is subject to the requirements of the zone in which the Second Dwelling is located;

[e] The property on which a Second Dwelling is located must be owner-occupied;

[f] A Second Dwelling is consistent with the maximum allowed density for the lot on which it is located, and is consistent with the existing General Plan land use designation for the lot; and

[g] A Second Dwelling requires one parking space, which may be in a tandem configuration, on an existing driveway.

[2] Senate Bill 1069. SB 1069 made several changes in State law, which addressed barriers to the development of ADUs, and expanded the capacity for their development.

The following is a brief summary of the SB 1069 provisions that went into effect on January 1, 2017:

[a] **Parking.** SB 1069 requires the application of off-street parking requirements at the rate of one space per bedroom or one space per unit, as determined by the local agency. Furthermore, the legislation authorizes off street parking to be tandem and located within setback areas, unless specific findings, such as fire and life safety conditions, are established by the local agency. SB 1069 also prohibits the application of parking requirements if the ADU meets any of the following circumstances:

- The ADU is located within one-half mile from public transit;
- The ADU is architecturally or historically significant, and is located within an historic district;
 - The ADU is attached to an existing primary residence or accessory structure, and shares living area with the existing residence;
 - The ADU is located within an area where on-street parking permits are required, but is not offered to the occupant of the ADU; or
 - The ADU is located within one block of a car share area.

[c] **Fire Protection.** SB 1069 provides that fire sprinklers shall not be required in an accessory unit if they are not required in the primary residence.

[d] **ADUs within Existing Space.** Local governments must ministerially approve an ADU application if:

- The unit is contained within an existing residence or accessory structure;
- The unit has independent exterior access from the existing residence; and
- The unit has side and rear setbacks that are sufficient for fire safety.

Furthermore, no additional parking can be required, or other development standards applied, excepting building code requirements.

[e] **No Prohibition of ADUs.** SB 1069 prohibits a local government from adopting an ordinance that prohibits the development of ADUs.

[3] Assembly Bill 2299. Like SB 1069, AB 2299 makes several changes to State laws addressing the development of ADUs. The following is a brief summary of the provisions that went into effect on January 1, 2017:

[a] **General Requirements.** AB 2299 requires that an ADU shall be ministerially approved if the unit complies with certain parking and setback requirements, and does not exceed the maximum allowable size, as follows:

- The ADU is not intended for sale separate from the primary residence and may be rented;
- The lot is zoned for single-family or multiple-family use, and contains an existing, single-family dwelling;
- The ADU is either [i] attached to an existing primary dwelling, [ii] located within the living area of the existing primary dwelling, or [iii] detached from the existing primary dwelling, and on the same lot;
- The increased floor area of an attached ADU does not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet;
- The total floor area of a detached ADU unit may not exceed 1,200 square feet;
- No passageway may be required (the term “passageway” means a pathway that is unobstructed clear to the sky, and extends from a street to the entrance of an ADU);
- No new setback can be required for an existing garage that is converted to an ADU;
- The ADU must comply with local building codes; and
- Approval by the local health officer is required when a private sewage disposal system is being used.

[b] ***Impact on Existing Accessory Dwelling Unit Ordinances.*** AB 2299 provides that any existing ADU ordinance that does not meet the bill’s requirements, is deemed null and void. In such cases, a jurisdiction must approve ADUs based on the requirements of State law (Government Code Section 65852.2), until the jurisdiction adopts a compliant ordinance.

[4] ***Assembly Bill 2406.*** AB 2406 authorizes local governments to allow Junior Accessory Dwelling Units (JADU). The bill defines JADUs to be a unit that cannot exceed 500 square feet, and must be completely contained within the footprint of an existing single-family dwelling. In addition, the bill requires specified components for a local JADU ordinance. The following is a brief summary of provisions that went into effect on September 28, 2016:

[a] ***Required Ordinance Components.*** AB 2406 requires that a local JADU ordinance include the following:

- One JADU is allowed per lot zoned for single-family residences, and a single-family residence must be existing on the lot;
- The property owner must reside in either the single-family residence in which the JADU is created, or in the newly created JADU; however, owner-occupancy is not required if the owner is a governmental agency, land trust, or housing organization;
- The owner must record a restrictive covenant stating that the JADU cannot be sold separately from the single-family residence, and restricting the JADU to the size limitations and other requirements of the JADU ordinance;

- The JADU must be located entirely within the existing structure of the single-family residence, and must have its own separate entrance;
- The JADU must include an efficiency kitchen that includes a sink, cooking appliance, counter surface, and storage cabinets that meet minimum Building Code standards. No gas or 220V circuits are allowed; and
- The JADU may share a bathroom with the primary residence, or have a separate bathroom.

[b] **Prohibited Ordinance Components.** AB 2406 prohibits a local JADU ordinance from requiring the following:

- Additional parking cannot be required as a condition to grant a permit; and
- Additional water, sewer and power connection fees cannot be applied, as these utilities were previously accounted for in the original permit for the home.

[c] **Fire Safety Requirements.** AB 2406 clarifies that a JADU is to be considered part of the single-family residence for the purposes of fire and life safety ordinances and regulations, such as sprinklers and smoke detectors. The bill also requires life and protection ordinances that affect single-family residences, to be applied uniformly to all single-family residences, regardless of the presence of a JADU.

[5] **Conclusion.** In compliance with the changes in State law required by SB 1069, AB 2299 and AB 2406, staff has prepared an Ordinance that will delete the current “Second Dwellings” provisions contained in Development Code Section 5.03.355, leaving the section to be designated “Reserved,” and new “Accessory Dwellings” development standards will be included with the existing “Accessory Residential Structures” land use provisions contained in Development Code Section 5.03.010, adding provisions governing ADUs and JADUs, as required by the changes to Government Code Sections 65582.1, 65583.1, 65589.4, 65852.150, 65852.2, 65852.22, and 66412.2. Furthermore, throughout the balance of the Development Code, where the term “Second Dwelling” is currently used, it will be revised to use the appropriate accessory dwelling terms (Accessory Dwelling Unit or Junior Accessory Dwelling Unit).

A copy of the revised Development Code Section 5.03.010 (Accessory Residential Structures) is included as Exhibit A of the Resolution. Additionally, the changes recommended by this Development Code Amendment are summarized below:

[a] Definitions have been added, as follows:

- **Accessory Dwelling Unit (ADU)** – An ADU that contains no more than 1,200 square feet (formerly 650 square feet) of floor area, and no more than 50 percent of the gross floor area of an attached dwelling. An ADU also includes Efficiency Dwelling Units as defined below, and Manufactured Homes as defined in Section 18007 of the Health and Safety Code;

- Efficiency Dwelling Unit (EDU) – An ADU having a minimum living area of 150 square feet, and containing a separate bathroom and an area containing an efficiency kitchen;
- Efficiency Kitchen - Includes a sink, cooking appliance, refrigeration facility, and food preparation counter and storage cabinets that are of reasonable size in relation to the dwelling size; and
- Passageway - A pathway that is unobstructed clear to the sky, which extends from a street to an entrance of an ADU.
- Junior Accessory Dwelling Unit (JADU) - An ADU that is no more than 500 SF in living area, is wholly contained within the existing walls of a single-family dwelling, and incorporates an existing bedroom within the existing dwelling.

[b] Adds a statement declaring that an ADU or JADU is deemed to be in compliance with the Policy Plan Land Use Plan and Zoning Map designations for a lot in which an ADU or JADU is located.

[c] The following development standards have been added:

- A lease or rental term must be no less than 31 days (to preclude Airbnb-type rentals);
- No setback is required for an existing garage, or existing space above an existing garage, that is converted to an ADU;
- A setback of no more than 5 FT from side and rear property lines is required for new floor area that is constructed above a garage;
- If an existing garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU, and replacement off-street parking is required, the replacement spaces may be located in any configuration on the same lot as the ADU, including, but not limited to, covered spaces, uncovered spaces, tandem spaces, or by use of mechanical automobile parking lifts;
- ADUs must provide off-street parking at the rate of one space for each bedroom;
- Off-street parking for an ADU is not required if any of the following conditions apply:
 - ADU is located within one-half mile of public transit;
 - ADU is located within an architecturally and/or historically significant district;
 - ADU is attached to the existing primary single-family dwelling or existing accessory structure, and shares living area with the existing dwelling;
 - An on-street parking permit is required, but is not offered to the ADU occupant; or
 - A car share vehicle is stationed within one block of the ADU.
- An ADU is not required to provide fire sprinklers if they are not required for the primary dwelling;

- Not more than one ADU or JADU is allowed on a lot;
- No passageway shall be required in conjunction with the construction of an ADU;
- An ADU or JADU cannot be constructed if a guesthouse already exists on the lot;
- A JADU must be wholly contained within the existing walls of a single-family dwelling and must incorporate an existing bedroom within the existing dwelling;
 - A JADU may include separate sanitation facilities or may share sanitation facilities with the existing single-family dwelling;
 - The use of the JADU as an independent living space may continue only if the owner resides in either the remaining portion of the existing structure or the newly created JADU;
 - A JADU must include an entrance that is separate from the main entrance to the primary dwelling, and an interior entry to the main living area of the primary dwelling;
 - The entrance to a JADU cannot be on the same exterior elevation as the main dwelling;
 - A JADU must include an area containing an efficiency kitchen;
 - Additional parking is not required for a JADU;
 - A JADU cannot be considered a separate or new dwelling unit for the purposes of providing service for water, sewer, or power (including the application of connection fees); and
 - Prior to the issuance of a building permit for a JADU, a restrictive covenant running with the land, which is binding on the property owner and their successors in interest, must be recorded with the office of the San Bernardino County Recorder, which specifies a prohibition on the sale of the JADU separate from the sale of the primary single-family dwelling.

In addition to revising Development Code Section 5.03.010 (Accessory Residential Structures) to include the proposed Accessory Dwellings development standards, the Accessory Residential Structures land use category in Development Code Table 5.02-1 (Land Use Matrix) will be similarly restructured, adding Accessory Dwellings as a land use subcategory, and permitting the land use within all residential zoning districts. The proposed revisions to Table 5.02-1 (Land Use Matrix) are shown in Exhibit B, attached to the Resolution.

COMPLIANCE WITH THE ONTARIO PLAN: The proposed project is consistent with the principles, goals and policies contained within the Vision, Governance, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan (TOP). More specifically, the goals and policies of TOP that are furthered by the proposed project are as follows:

[1] City Council Goals.

- Focus Resources in Ontario's Commercial and Residential Neighborhoods
- Operate in a Businesslike Manner

[2] Policy Plan (General Plan).

[a] ***Land Use Element – Balance:***

- Goal LU1: A community that has a spectrum of housing types and price ranges that match the jobs in the City and that make it possible for people to live and work in Ontario and maintain a quality of life.

- LU1-1: Strategic Growth. We concentrate growth in strategic locations that help create place and identity, maximize available and planned infrastructure, and foster the development of transit.

- LU1-2 Sustainable Community Strategy. We integrate state, regional and local Sustainable Community/Smart Growth principles into the development and entitlement process.

- LU1-3 Adequate Capacity. We require adequate infrastructure and services for all development.

- LU1-6 Complete Community. We incorporate a variety of land uses and building types in our land use planning efforts that result in a complete community where residents at all stages of life, employers, workers and visitors have a wide spectrum of choices of where they can live, work, shop and recreate within Ontario.

[b] ***Land Use – Compatibility***

- Goal LU2: Compatibility between wide ranges of uses.

- LU2-2 Buffers. We require new uses to provide mitigation or buffers between existing uses where potential adverse impacts could occur.

[c] ***Community Design Element – Design Quality***

- Goal CD2: A high level of design quality resulting in public spaces, streetscapes, and developments that are attractive, safe, functional and distinct.

- CD2-1 Quality Architecture. We encourage all development projects to convey visual interest and character through:

- Building volume, massing, and height to provide appropriate scale and proportion;
- A true architectural style which is carried out in plan, section and elevation through all aspects of the building and site design and appropriate for its setting; and
- Exterior building materials that are visually interesting, high quality, durable, and appropriate for the architectural style.

➤ CD2-2 Neighborhood Design. We create distinct residential neighborhoods that are functional, have a sense of community, emphasize livability and social interaction, and are uniquely identifiable places through such elements as:

- A pattern of smaller, walkable blocks that promote access, activity and safety;
- Variable setbacks and parcel sizes to accommodate a diversity of housing types;
- Floor plans that encourage views onto the street and de-emphasize the visual and physical dominance of garages (introducing the front porch as the “outdoor living room”), as appropriate; and

➤ CD2-8 Safe Design. We incorporate defensible space design into new and existing developments to ensure the maximum safe travel and visibility on pathways, corridors, and open space and at building entrances and parking areas by avoiding physically and visually isolated spaces, maintenance of visibility and accessibility, and use of lighting.

[d] *Housing Element – Housing Supply & Diversity:*

▪ Goal H2: Diversity of types of quality housing that are affordable to a range of household income levels, accommodate changing demographics, and support and reinforce the economic sustainability of Ontario.

➤ H2-5 Housing Design. We require architectural excellence through adherence to City design guidelines, thoughtful site planning, environmentally sustainable practices and other best practices.

[e] *Community Economics Element – Place-Making:*

▪ Goal CE2: A City of distinctive neighborhoods, districts, and corridors, where people choose to be.

➤ CE2-1 Development Projects. We require new development and redevelopment to create unique, high-quality places that add value to the community.

➤ CE2-5 Private Maintenance. We require adequate maintenance, upkeep, and investment in private property because proper maintenance on private property protects property values.

HOUSING ELEMENT COMPLIANCE: The project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan, as the project site is not one of the properties in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix.

AIRPORT LAND USE COMPATIBILITY PLAN (ALUCP) COMPLIANCE: The project site is located within the Airport Influence Area of Ontario International Airport (ONT), and has been found to be consistent with the policies and criteria set forth within the ALUCP for ONT.

ENVIRONMENTAL REVIEW: The proposed Development Code Amendment is exempt from the requirements of the California Environmental Quality Act (CEQA) and the guidelines promulgated thereunder, pursuant to Section 15061(b)(3) of the CEQA Guidelines, in that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

EXHIBIT B — Amended Accessory Residential Structures Land Use Category

Table 5.02-1: Land Use Matrix

2012 NAICS Code	Land Uses, Activities, and Facilities <i>Note: Properties within the Airport Influence Area (AIA) established by the LA/Ontario International Airport Land Use Compatibility Plan (ALUCP) shall be subject to the land use requirements and standards of the ALUCP.</i>	Residential Zoning Districts				Commercial Zoning Districts						Mixed-Use Zoning Districts			Industrial Zoning Districts					Specialized Use & Overlay Zoning Districts							Additional Regulations			
		AR-2 & RE-2	RE-4 & LDR-5	MDR-11, 18 & 25	HDR-45	CS	CN	CC	CR	CCS	OL	OH	MU-1	MU-2	MU-11	BP	IP	IL	IG	IH	AG	CIV	MHP	ONT	OS-C	OS-R		RC	UC	
00	RESIDENTIAL																													
	Accessory Residential Structures																													
	<ul style="list-style-type: none"> Accessory Dwellings (limited to accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in conjunction with a traditional single-family dwelling) 	P	P	P	P	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
	<ul style="list-style-type: none"> Guesthouses 	P	P	P	P	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	P	---	---	---	---	---	---	---	---	---
	<ul style="list-style-type: none"> All Other Accessory Residential Structures (includes garages, carports, garden and tool sheds, and other ancillary buildings and structures determined appropriate by the Planning Director) 	P	P	P	P	---	---	---	---	---	---	P	P	P	---	---	---	---	---	---	P	---	P	---	---	---	---	---	---	---

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, RECOMMENDING CITY COUNCIL APPROVAL OF FILE NO. PDCA16-007, A DEVELOPMENT CODE AMENDMENT REVISING VARIOUS PROVISIONS OF DEVELOPMENT CODE CHAPTER 5.0 (ZONING AND LAND USE) PERTAINING TO ACCESSORY DWELLING UNITS (FORMERLY REFERRED TO AS SECOND DWELLINGS), TO INCORPORATE RECENT CHANGES IN THE STATE'S ACCESSORY DWELLING UNIT LAWS (EXHIBITS A AND B, ATTACHED), AS PRESCRIBED IN SENATE BILL 1069, AND ASSEMBLY BILLS 2299 AND 2406, AND MAKING FINDINGS IN SUPPORT THEREOF.

WHEREAS, The City of Ontario ("Applicant") has initiated an Application for the approval of a Development Code Amendment, File No. PDCA16-007, as described in the title of this Ordinance (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Development Code (Ontario Municipal Code Title 9) provides the legislative framework for the implementation of The Ontario Plan, which states long-term principles, goals, and policies for guiding the growth and development of the City in a manner that achieves Ontario's vision and promotes and protects the public health, safety, comfort, convenience, prosperity, and welfare of its citizens; and

WHEREAS, on December 1, 2015, the City Council approved a comprehensive update to the Ontario Development Code (Ordinance No. 3028), which became effective on January 1, 2016. The City has initiated alterations to the Development Code to incorporate recent changes in the State of California's Accessory Dwelling Unit laws, as prescribed in Senate Bill 1069 (Government Code Sections 65582.1, 65583.1, 65589.4, 65852.150, 65852.2, and 66412.2), and Assembly Bills 2299 (Government Code Section 65852.2) and 2406 (Government Code Section 65852.22); and

WHEREAS, the Project is located within the Airport Influence Area of Ontario International Airport (ONT), which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and is subject to, and must be consistent with, the policies and criteria set forth in the ONT Airport Land Use Compatibility Plan (ALUCP), which applies only to jurisdictions within San Bernardino County, and addresses the noise, safety, airspace protection, and overflight impacts of current and future airport activity; and

WHEREAS, on February 28, 2017, the Planning Commission of the City of Ontario conducted a public hearing to consider the Application, and concluded the hearing on that date; and

WHEREAS, all legal prerequisites to the adoption of this ordinance have occurred.

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED, AND RESOLVED by the Planning Commission of the City of Ontario, as follows:

SECTION 1. Environmental Determination and Findings. As the recommending body for the Project, the Planning Commission has reviewed and considered the information contained in the administrative record for the Project. Based upon the facts and information contained in the administrative record, including all written and oral evidence presented to the Planning Commission, the Planning Commission finds as follows:

a. The administrative record have been completed in compliance with CEQA the State CEQA Guidelines and the City of Ontario Local CEQA Guidelines; and

b. The proposed Development Code Amendment is exempt from the requirements of the California Environmental Quality Act (CEQA) and the guidelines promulgated thereunder, pursuant to Section 15061(b)(3) of the CEQA Guidelines, in that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA; and

c. The application of the categorical exemption is not barred by one of the exceptions set forth in CEQA Guidelines Section 15300.2; and

d. The determination of the CEQA exemption reflects the independent judgment of the Planning Commission.

SECTION 2. Housing Element Consistency. Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as the recommending body for the Project, the Planning Commission finds that based upon the facts and information contained in the Application and supporting documentation, at the time of Project implementation, the Project will be consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan, as the project does not specifically affect the properties in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix.

SECTION 3. Airport Land Use Compatibility Plan (ALUCP) Consistency. As the recommending body for the Project, the Planning Commission has reviewed and considered the facts and information contained in the Application and supporting documentation, and finds that, at the time of Project implementation, the Project will be consistent with the policies and criteria set forth within the ONT ALUCP.

SECTION 4. *Concluding Facts and Reasons.* Based upon the substantial evidence presented to the Planning Commission during the above-referenced hearing, and upon the specific findings set forth in Section 1 through 3 above, the Planning Commission hereby concludes as follows:

a. The proposed Development Code Amendment is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan; and

b. The proposed Development Code Amendment would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City.

SECTION 5. *Planning Commission Action.* Based upon the findings and conclusions set forth in Sections 1 through 4 above, the Planning Commission hereby **RECOMMENDS THE CITY COUNCIL APPROVE** the subject Development Code Amendment, File No. PDCA16-007, attached as Exhibits A and B of this Resolution.

SECTION 6. *Indemnification.* The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void, or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action, or proceeding, and the City of Ontario shall cooperate fully in the defense.

SECTION 7. *Custodian of Records.* The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 8. *Certification to Adoption.* The Secretary shall certify to the adoption of the Resolution.

The Secretary Pro Tempore for the Planning Commission of the City of Ontario shall certify as to the adoption of this Resolution.

I hereby certify that the foregoing Resolution was duly and regularly introduced, passed and adopted by the Planning Commission of the City of Ontario at a regular meeting thereof held on the 28th day of February 2017, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.

Jim Willoughby
Planning Commission Chairman

ATTEST:

Scott Murphy
Planning Director/Secretary of Planning
Commission

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, Marci Callejo, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC17-[insert #] was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on February 28, 2017, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marci Callejo
Secretary Pro Tempore

**EXHIBIT A — Proposed Amendment to Development Code Division 5.03
(Standards for Certain Land Uses, Activities and Facilities)**

5.03.010: Accessory Residential Structures

This Section shall govern the development and use of buildings and structures that are accessory to single-family dwellings, and are attached to, or detached from, the main dwelling, such as second dwellings, carports, garages, garden and tool sheds, guesthouses, and other similar ancillary buildings and structures:

A. Accessory Dwellings.

1. Purpose. These provisions governing Accessory Dwellings have been established in compliance with SB 1069 (amending GC 65582.1, 65583.1, 65589.4, 65852.150, 65852.2, and 66412.2) and AB 2299 (amending GC 65852.2), signed into law on September 27, 2016, which amended the State's Accessory Dwelling Unit law (formerly referred to as Second Units), and AB 2406 (amending GC 65852.22), signed into law on September 28, 2016, adding provisions governing Junior Accessory Dwelling Units, and allowing for greater flexibility in the design of accessory dwellings.

2. Applicability. In compliance with the provisions of State Accessory Dwelling Unit law, the provisions of Subsections C through F, below, shall govern the establishment and use of Accessory Dwelling Units and Junior Accessory Dwelling Units within the City of Ontario:

3. Definitions. For the purposes of this Section, the words or phrases listed below shall have the meanings thereafter specified:

a. Accessory Dwelling Unit (ADU). An attached or detached dwelling unit, which contains no more than 1,200 SF of gross floor area, and no more than 50 percent of the gross floor area of an attached dwelling, with complete independent living facilities for one or more persons, and includes permanent provisions for living, sleeping, eating, cooking, and sanitation on the same lot in which an existing primary single-family dwelling is situated. An ADU also includes Efficiency Dwelling Units, and a Manufactured Homes as defined by HSC Section 18007.

b. Efficiency Dwelling Unit (EDU). As provided in HSC Section 17958.1, an ADU having a minimum living area of 150 SF, which is for occupancy by no more than two persons. Furthermore, an EDU shall contain a separate bathroom and an area containing an efficiency kitchen.

This Section shall govern the development and use of buildings and structures that are accessory to single-family dwellings, and are attached to, or detached from, the main dwelling, such as second dwellings, carports, garages, garden and tool sheds, guesthouses, and other similar ancillary buildings and structures:

B. Accessory Dwellings.

1. **Purpose.** These provisions governing Accessory Dwellings have been established in compliance with SB 1069 (amending GC 65582.1, 65583.1, 65589.4, 65852.150, 65852.2, and 66412.2) and AB 2299 (amending GC 65852.2), signed into law on September 27, 2016, which amended the State's Accessory Dwelling Unit law (formerly referred to as Second Units), and AB 2406 (amending GC 65852.22), signed into law on September 28, 2016, adding provisions governing Junior Accessory Dwelling Units, and allowing for greater flexibility in the design of accessory dwellings.

2. **Applicability.** In compliance with the provisions of State Accessory Dwelling Unit law, the provisions of Subsections C through F, below, shall govern the establishment and use of Accessory Dwelling Units and Junior Accessory Dwelling Units within the City of Ontario:

3. **Definitions.** For the purposes of this Section, the words or phrases listed below shall have the meanings thereafter specified:

a. **Accessory Dwelling Unit (ADU).** An attached or detached dwelling unit, which contains no more than 1,200 SF of gross floor area, and no more than 50 percent of the gross floor area of an attached dwelling, with complete independent living facilities for one or more persons, and includes permanent provisions for living, sleeping, eating, cooking, and sanitation on the same lot in which an existing primary single-family dwelling is situated. An ADU also includes Efficiency Dwelling Units, and a Manufactured Homes as defined by HSC Section 18007.

b. **Efficiency Dwelling Unit (EDU).** As provided in HSC Section 17958.1, an ADU having a minimum living area of 150 SF, which is for occupancy by no more than two persons. Furthermore, an EDU shall contain a separate bathroom and an area containing an efficiency kitchen.

c. **Efficiency Kitchen.** A kitchen which, at a minimum, includes a sink, cooking appliance, refrigeration facility, and a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the dwelling it serves.

d. **Junior Accessory Dwelling Unit (JADU).** As provided in GC Section 65852.22, an accessory dwelling that is no more than 500 SF in living area, is wholly contained within the existing walls of a single-family dwelling, and incorporates an existing bedroom within the existing dwelling.

e. **Living Area.** The interior habitable area of a dwelling unit, including improved basements and attics, but does not include a garage or accessory structure.

f. **Passageway.** A pathway that is unobstructed clear to the sky, and extends from a street to an entrance of an accessory dwelling unit.

4. Policy Plan (General Plan) and Zoning Consistency. An ADU or JADU that conforms to the requirements of this Section shall be deemed to be in compliance with the maximum allowed density for the lot upon which it is located, and consistent with the existing Policy Plan Land Use Plan and zoning designations for the lot.

5. Accessory Dwelling Unit (ADU) Development Standards. ADUs shall comply with the following development standards:

a. An ADU shall only be permitted in conjunction with an existing single-family dwelling located within a single-family or multiple-family zoning district. The use of the ADU as an independent living space may continue only if one dwelling on the lot is owner occupied.

b. An ADU may either be an independent unit attached to an existing single-family dwelling; a unit attached to the primary single-family dwelling, sharing living space; or an independent unit detached from the primary single-family dwelling.

c. An ADU that is attached to the primary single-family dwelling shall comply with the development standards applicable to the primary dwelling, except as otherwise provided by this Section.

d. An ADU that is detached from the primary single-family dwelling shall comply with the Accessory Detached Residential Structures development standards, as prescribed in Tables 6.01-1 (Traditional Single-Family Residential Development Standards), 6.01-2A (Small Lot Single-Family Residential Development Standards—Traditional Subdivisions), 6.01-2B (Small Lot Single-Family Residential Development Standards—Alley-Loaded Subdivisions), and 6.01-2C (Small Lot Single-Family Residential Development Standards—Cluster Subdivisions) of this Development Code of Division 6.01 (District Standards and Guidelines), as applicable, except as otherwise provided by the provisions of this Section.

e. An ADU is not intended for sale separate from the primary single-family residence, and may be leased or rented for a term no less than 31 days.

f. No additional setback shall be required for an existing garage, or existing space above an existing garage, that is converted to an ADU. Furthermore, new floor area constructed above an existing garage shall not be required a side and/or rear property line setback of more than 5 FT.

g. If an existing garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU, and replacement off-street parking is required, the replacement spaces may be located in any configuration on the same lot as the ADU, including, but not limited to, covered spaces, uncovered spaces, tandem spaces, or by use of mechanical automobile parking lifts.

h. Comply with the off-street parking requirements for ADUs contained in Table 6.03-1 (Off-Street Parking Requirements) of this Development Code (minimum one parking space per bedroom). The required parking spaces may be provided as tandem parking on an existing driveway, and may be permitted within setback areas, unless it is determined by the Planning Director to not be feasible based upon specific site, fire, and life safety conditions. Off-street parking shall not be required for an ADU if any of the following conditions apply:

- (1)** The ADU is located within one-half mile of public transit;
- (2)** The ADU is located within an architecturally and/or historically significant district;
- (3)** The ADU is inclusive of the existing primary single-family dwelling or an existing accessory structure;
- (4)** An on-street parking permit is required, but is not offered to the occupant of the ADU; or
- (5)** A car share vehicle is stationed within one block of the ADU.

i. An ADU is not required to provide fire sprinklers if they are not required for the primary single-family dwelling.

j. Not more than one ADU is allowed on a lot, and an ADU shall not be constructed if a guesthouse or Junior Accessory Dwelling Unit already exists on the lot; however, this provision does not preclude the conversion of an existing guesthouse to an ADU or JADU.

k. An ADU may be metered separately from the primary dwelling for gas, electricity and water services. A sewer connection separate from the primary dwelling may also be provided.

l. If an entrance to an ADU is provided separate from the primary dwelling, the entrance shall not be on the same street exterior elevation as the main dwelling.

m. No passageway shall be required in conjunction with the construction of an ADU.

n. Prior to the issuance of a building permit for an ADU, a restrictive covenant running with the land, which is binding on the property owner and their successors in interest, shall be recorded with the office of the San Bernardino County Recorder, which specifies that the use of the ADU as an independent living space may continue only if one dwelling on the lot is occupied by the property owner, and a prohibition

on the separate sale of the ADU. Furthermore, restrictions may be included that are intended to ensure on-going compliance with the provisions of this Section.

6. Junior Accessory Dwelling Unit (JADU) Development Standards. JADUs shall comply with the following development standards:

a. A maximum of one JADU shall be permitted on a residential lot that is zoned for single-family or multiple-family residences, and which has a single-family dwelling already constructed on the lot.

b. A JADU shall be wholly contained within the existing walls of a single-family dwelling and shall incorporate an existing bedroom within the existing dwelling.

c. A JADU may include separate sanitation facilities or may share sanitation facilities with the existing single-family dwelling.

d. The use of the JADU as an independent living space may continue only if the owner resides in either the remaining portion of the structure or the newly created JADU, unless the owner is a governmental agency, land trust, or housing authority.

e. A JADU shall include an entrance that is separate from the main entrance to the primary dwelling, and an interior entry to the main living area of the primary dwelling. Furthermore, the interior entry to the main living area of the primary dwelling may include a second interior doorway for sound attenuation purposes.

f. The entrance to the JADU, which is provided separate from the primary dwelling entrance, shall not be on the same street exterior elevation as the main dwelling.

g. The JADU shall include an area containing an efficiency kitchen, as provided in GC 65852.22(a)(6).

h. Additional parking shall not be a requirement of JADU approval.

i. Not more than one JADU is allowed on a lot, and a JADU shall not be constructed if an ADU or guesthouse already exists on the lot; however, this provision does not preclude the conversion of an existing guesthouse, which is attached to the main dwelling, to a JADU.

j. For the purposes of providing service for water, sewer, or power (including the application of connection fees), a JADU shall not be considered a separate or new dwelling unit.

k. Prior to the issuance of a building permit for a JADU, a restrictive covenant running with the land, which is binding on the property owner and their successors in interest, shall be recorded with the office of the San Bernardino County

Recorder, which specifies a prohibition on the sale of the JADU separate from the sale of the primary single-family dwelling. Furthermore, restrictions may be included that are intended to ensure on-going compliance with the provisions of this Section.

C. Other Accessory Residential Structures.

1. General Requirements. Accessory detached residential structures shall only be allowed on a lot containing a single-family dwelling, and shall be developed pursuant to the following standards:

a. Accessory residential structures may be attached to the main dwelling or may be an independent structure that is detached from the main dwelling. An accessory residential structure that is attached to the main dwelling by either a common wall or solid roof having a minimum width equal to the width of the accessory structure roof, shall be deemed part of the main dwelling, and is subject to the development standards applicable to the main dwelling.

b. Accessory detached residential structures shall comply with the applicable traditional, small lot, and cluster single-family residential development standards and guidelines contained in Section 6.01.010 (Residential Zoning Districts) of this Development Code.

c. The sum total of the area of all detached accessory residential structures on a lot, excepting ADUs and JADUs, shall be equal to no more than 50 percent of the gross floor area of the main dwelling on the lot.

d. Accessory residential structures shall not contain a kitchen or cooking facilities, excepting Accessory Dwelling Units conforming to Subsection A (Accessory Dwellings), of this Section.

e. The size, footprint, height, bulk, and scale of an accessory detached residential structure shall be compatible with the main dwelling and other accessory structures and dwellings in the surrounding neighborhood.

f. The area of an Accessory Detached Residential Structure shall be the minimum necessary to house, shelter, or secure the use proposed within the structure; however, in no case shall the total gross floor area of all Accessory Detached Residential Structures on a lot exceed the area contained in the main dwelling, excepting those accessory structures used for animal keeping purposes. In calculating the area of all Accessory Detached Residential Structures on a lot, required parking within a garage shall be excluded from the calculation, up to a maximum of 3 covered parking stalls (maximum 651 SF).

g. Accessory Detached Residential Structures shall match the main dwelling with respect to architectural design and detailing, roof material and design, exterior color, exterior finish materials, window and door design, and design and

placement of attic vents, excepting those Accessory Detached Residential Structures less than 120 SF in area, and those used solely for animal keeping purposes within the AR-2 and RE-2 zoning districts, and the AG Overlay district. For the purposes of this Section, Accessory Detached Residential Structures intended solely for animal keeping purposes may also be used for the storage of vehicles, machinery, and equipment used in animal keeping.

h. Accessory Detached Residential Structures shall not be located: **[i]** within front yards, **[ii]** within street side yards of corner lots, or **[iii]** in front of the main dwelling.

i. No Accessory Detached Residential Structure containing mechanical or other fixed equipment capable of creating a noise that is audible beyond the property line shall be placed closer than 5 FT to a side or rear property line.

j. Accessory Detached Residential Structures shall be placed only within the side or rear yard area of a lot, and shall comply with the development standards prescribed for Accessory Detached Residential Structures in Tables 6.01-1 (Traditional Single-Family Residential Development Standards), 6.01-2A (Small Lot Single-Family Residential Development Standards—Traditional Subdivisions), 6.01-2B (Small Lot Single-Family Residential Development Standards—Alley-Loaded Subdivisions), and 6.01-2C (Small Lot Single-Family Residential Development Standards—Cluster Subdivisions) of Division 6.01 (District Standards and Guidelines), as applicable.

k. A lot developed with an Accessory Detached Residential Structure shall maintain a useable rear yard that is equal to a minimum of 10 percent of the net lot area. In addition, traditional single-family dwellings shall have a rear yard minimum dimension of 20 FT in any direction, and single-family small lot and cluster dwellings shall have a rear yard minimum dimension of 10 FT in any direction.

l. On a reversed corner lot, an Accessory Detached Residential Structure placed within the rear yard area shall not project beyond the minimum required front yard setback of the adjoining key lot, and shall be located no closer than 5 FT to the side property line of the key lot (rear property line of the reverse corner lot).

m. On a reverse corner lot, an Accessory Detached Residential Structure shall not be closer to the rear property line than the minimum required side yard setback on the adjoining key lot.

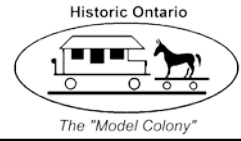
2. Guesthouses. In addition to the standards applicable to Other Accessory Residential Structures contained in Paragraph B.1 (General Requirements) of this Section, guesthouses shall comply with the following additional standards:

a. No more than one Guesthouse shall be permitted per lot, and a Guesthouse shall not be constructed if an accessory dwelling exists on the lot.

b. A Guesthouse shall be for the sole use of the family of the occupants of the main dwelling and persons employed on the premises, or for temporary use by non-paying guests for a period not to exceed 90 days within any 120-day period. In addition, Guesthouses shall not be rented or otherwise used as a separate, independent residence.

3. Carports. No Carport shall be allowed within a front or street side yard setback area. Carports shall not be permitted in lieu of a garage required pursuant to the provisions of Table 6.03-1 (Off-Street Parking Requirements) of this Development Code, unless otherwise permitted by this Section.

PLANNING / HISTORIC PRESERVATION COMMISSION STAFF REPORT



DATE: February 28, 2017

FILE NOS.: PHP16-020

SUBJECT: A Certificate of Appropriateness to construct a 641 square foot addition and exterior improvements to an existing 917 square foot single family residence, a Contributor to the Rosewood Court Historic District, located at 319 East Rosewood Court, within the LDR-5 (Low Density Residential – 2.1 to 5.0 DUs/Acre) zoning district. (APN: 1048-063-20)

LOCATION: 319 East Rosewood Court

**APPLICANT/
PROPERTY
OWNER:** Grant Mackay

RECOMMENDATION:

That the Planning Commission/Historic Preservation Commission approve File No. PHP16-020, pursuant to the facts and reasons contained in the staff report and attached resolution, and subject to the attached conditions of approval.

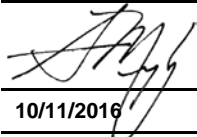
BACKGROUND:

The project site is comprised of 0.13 acres of land on the north side of Rosewood Court, at 319 East Rosewood Court, within an existing residential neighborhood in the LDR-5 (Low Density Residential – 2.1 to 5.0 DUs/Acre) zoning district, and is depicted in *Figure 1: Project Location*.



Figure 1: Project Location

Case Planner: Elly Antuna, Assistant Planner

Planning Director Approval: 

Submission Date: 10/11/2016

Hearing Deadline: 02/28/2017

Hearing Body	Date	Decision	Action
HPSC:	<u>02/09/2017</u>	Approve	Recommend
PC / HPC:	<u>02/28/2017</u>		Final
CC:			

ARCHITECTURAL DESCRIPTION AND HISTORY:

HISTORIC NAME: John W. Feeney House

DESIGNATION DATE: October 2, 2001
(Rosewood Court Historic District)



Figure 2: John W. Feeney House

The property has been designated as a Contributor to the Rosewood Court Historic District and is depicted in *Figure 2: John W. Feeney House*. The Rosewood Court Historic District developed from approximately 1925 to the beginning of World War II. The district features predominately Period Revival style homes, including French Eclectic, Tudor, and Colonial Revival. The one-story, single family residence was constructed in 1928 (est.) in the Colonial Revival Bungalow architectural style. This Colonial Revival Bungalow is square in plan and has a

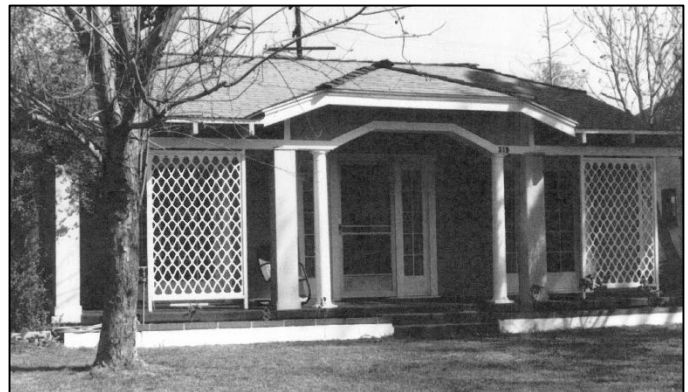


Figure 3: 1984 Survey Photo

hipped gable roof covered in composition shingles, exposed rafter tails, and a central hipped gable entry-way supported by four wood columns. The centrally located front door with sidelights is flanked by two fixed vinyl windows with grid patterns.

The walls are clad in fiber cement horizontal plank siding and the building sits on a raised foundation. The 1984 Citywide architectural survey (*Figure 3: 1984 Survey Photo*) indicates that the two fixed windows on the primary façade were originally multi-pane French doors. The remaining elevations feature a mix of hung and slider vinyl windows, which are not original, and a matching rear hipped gable end.

In 2003, a permit was issued to remove the horizontal wood siding from the exterior of the residence and replace with fiber cement plank siding. There is also a detached 2-car garage covered in fiber cement horizontal plank siding. Staff was not able to locate any permits or approvals for the completed window replacement. Sanborn maps indicate the detached garage structure has been present since at least 1928.

PROJECT ANALYSIS:

The Applicant is requesting a Certificate of Appropriateness (File No. PHP16-020) to allow for the construction of a 641 square foot addition at the rear of the existing 917 square foot residence, an increase in area of 70 percent. Section 4.02.050 (Historic Preservation Certificate of Appropriateness and Demolition of Historic Resources) of the Ontario

Development Code requires approval of a Certificate of Appropriateness for any addition exceeding 650 square feet in area or 50 percent of the existing original historic building area, whichever is less, to all historical resources.

Site Design: The new construction will extend a portion of the original structure by 35'-9" at the rear, will be 17'-11" wide and is depicted in *Figure 4: Site Plan*. The existing roof pitch, height and overhang will minimize visibility of the new construction from Rosewood Court.

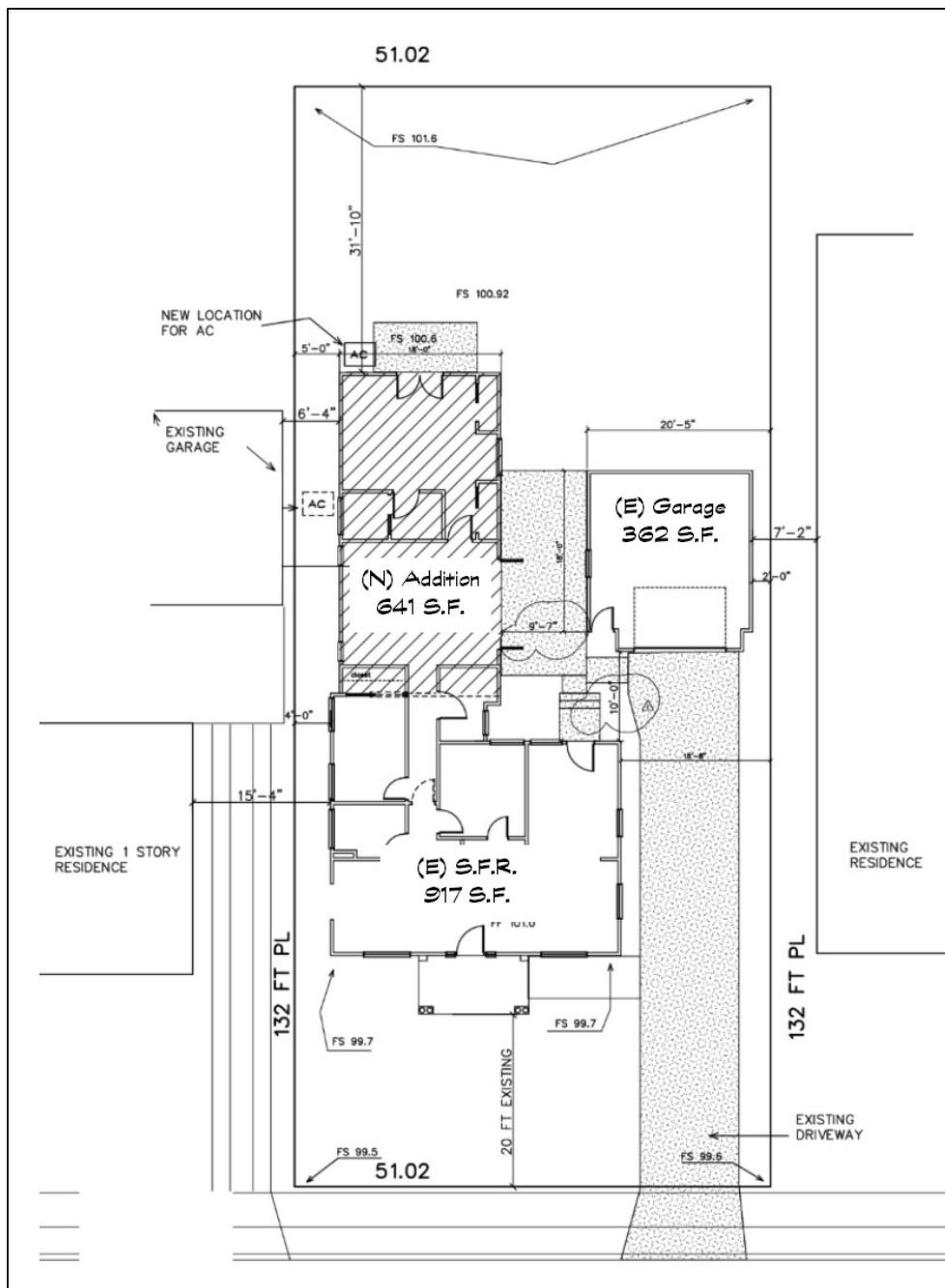


Figure 4: Site Plan

Floor Plan: The addition will accommodate a laundry area, great room, and master bedroom suite, and is depicted in *Figure 5: Existing and Proposed Floor Plan*.

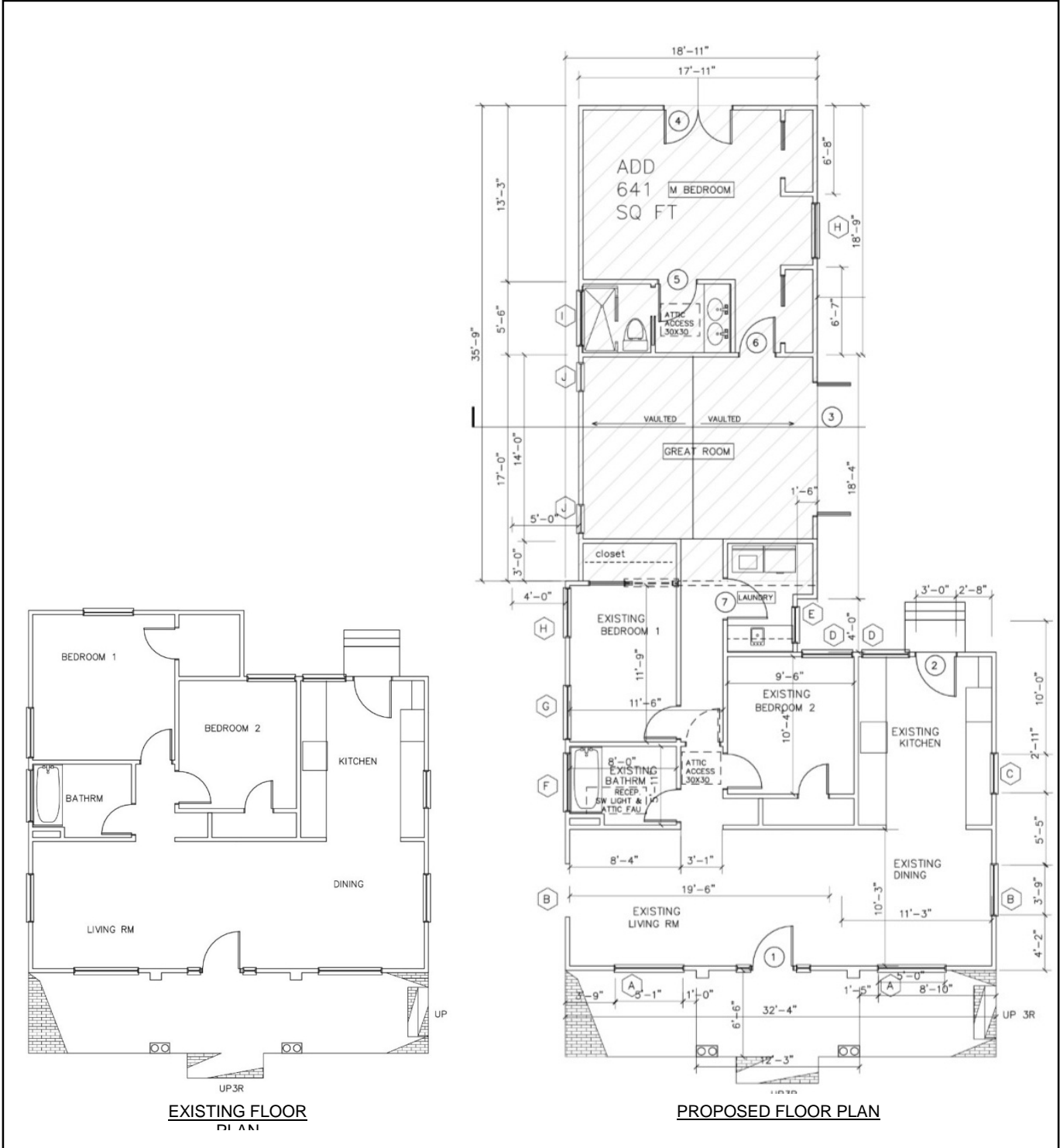


Figure 5: Existing and Proposed Floor Plan

Architecture: The exterior siding material will be a narrow horizontal fiber cement siding to match the original building, and is depicted in *Figure 6: Conceptual Elevations*. The hipped gable roof feature will also be constructed on the addition over the two proposed French doors. All window and door trim on the addition will match existing. A condition of approval has been included requiring that wherever the original windows have been replaced with inappropriate windows, new period appropriate windows will be installed. Slider windows are not appropriate replacement windows on a Colonial Revival Bungalow building where windows were typically individual single or double-hung. All existing slider windows will be replaced with hung windows, any existing hung windows will remain. The original window frame and trim has remained intact and will not be altered with the window replacements. The two fixed windows on the primary façade will be replaced with true divided lite wood casement windows which will more closely match the French doors that were originally present.

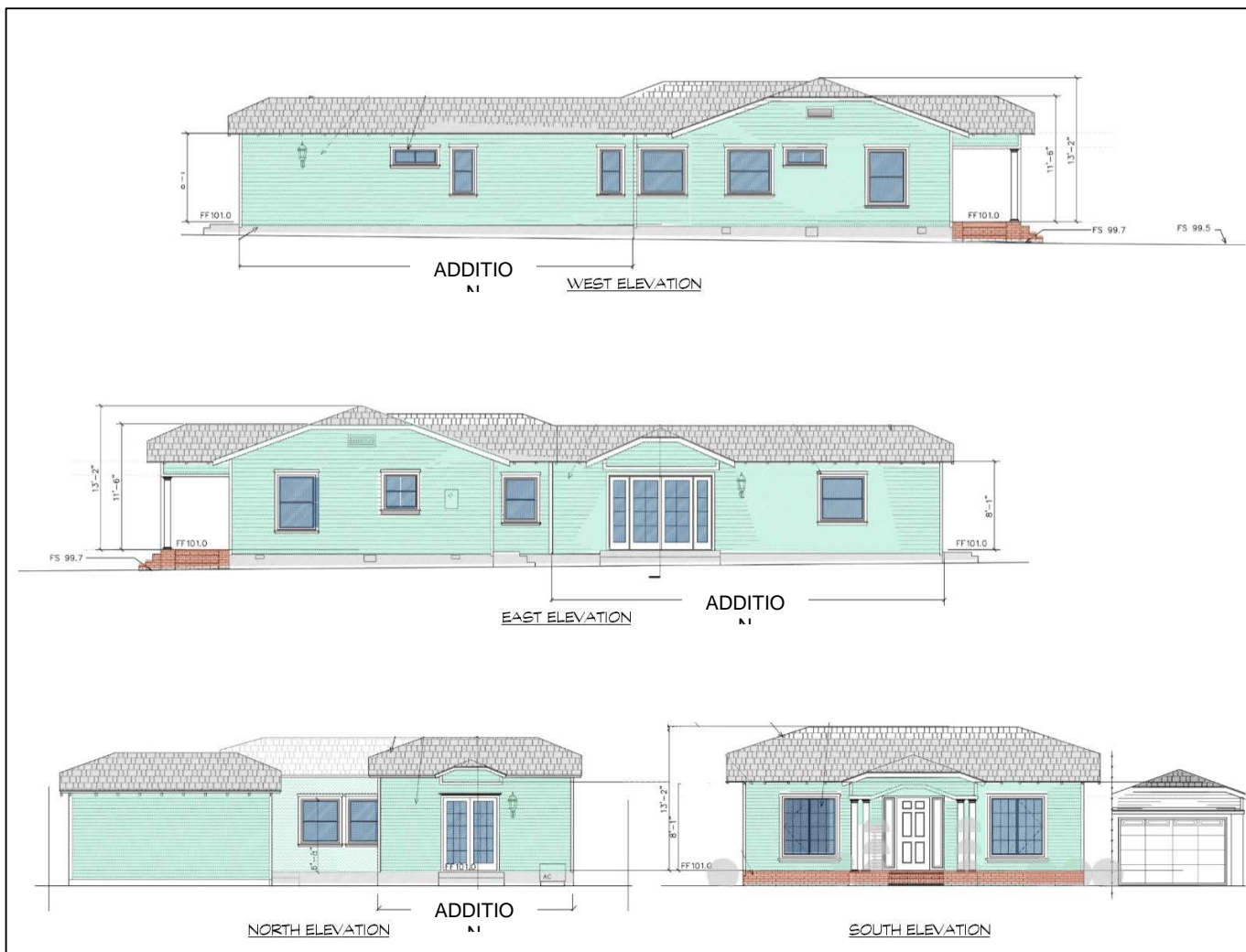


Figure 6: Conceptual Elevations

On February 9, 2017, the Historic Preservation Subcommittee (HPSC) reviewed the Certificate of Appropriateness application and recommended approval to the Planning/Historic Preservation Commission subject to conditions of approval as contained in Exhibit A of the Resolution.

FINDINGS OF FACT:

The Secretary of the Interiors' Standards for the Treatment of Historic Properties was developed by the Federal Government to be guiding principles for the treatment of historic properties. Staff uses the Standards for Rehabilitation when evaluating the appropriateness of proposed additions and alterations to historic resources.

The Planning Commission, serving as the Historic Preservation Commission, must consider and clearly establish certain findings of facts for all Certificate of Appropriateness applications. The exterior alterations, in whole or in part:

- a. *Finding: Will not detrimentally change, destroy, or adversely affect any significant architectural feature of the resource.*

Fact: The proposed addition will be constructed at the rear of the residence to minimize visual impacts and will result in the least possible loss of historic materials. The proposed horizontal fiber cement siding, custom windows, French doors and other architectural details on the new construction will match those of the main building resulting in a seamless addition, and therefore will not adversely change or affect any significant architectural features of the resource. Additionally, the removal of the inappropriate windows and replacement with appropriate windows will restore the significant architectural features of the resource.

- b. *Finding: Will not detrimentally change, destroy, or adversely affect the historic character or value of the resource.*

Fact: The proposed roof pitch, exterior finishes and windows are all consistent with the Colonial Revival Bungalow architectural style of the building. The size and placement of the addition maintains the existing scale and massing from the public view, resulting in little to no visual impact from Rosewood Court. The interior side yard setback of the new construction will be slightly larger than the existing, resulting in reduced visibility from Rosewood Court, and therefore will not detrimentally change, destroy or adversely affect the historic character or value of the resource.

- c. *Finding: Will be compatible with the exterior character-defining features of the historic resource.*

Fact: Through appropriate placement, scale, windows and exterior finishes compatible with the Colonial Revival Bungalow architectural styles, the proposed new construction will be compatible with the exterior character-defining features of the historic resource.

COMPLIANCE WITH THE ONTARIO PLAN:

The proposed project is consistent with the principles, goals and policies contained within the components that make up The Ontario Plan (TOP), including: (1) Vision, (2) Governance, (3) Policy Plan (General Plan) and (4) City Council Priorities in the following ways:

[1] City Council Goals

- Invest in the Growth and Evolution of the City's Economy
- Focus Resources in Ontario's Commercial and Residential Neighborhoods

[2] Vision

Dynamic Balance

- An appreciation for the "personality and charm" of this community, preserving important characteristics and values even as growth and change occur, all the while retaining a distinctive local feel where people love to be.

Distinctive Development

- Diverse and highly successful villages that benefit from preservation, enhancement and selective intensification (Original Model Colony)

[3] Governance

Governance – Decision Making

- Goal G1: Sustained decision-making that consistently moves Ontario towards its Vision by using The Ontario Plan as a framework for assessing choices
 - G1-2 Long-term Benefit. We require decisions to demonstrate and document how they add value to the community and support the Ontario Vision.

[4] Policy Plan

Land Use Element – Balance

- Goal LU1: A community that has a spectrum of housing types and price ranges that match the jobs in the City and that make it possible for people to live and work in Ontario and maintain a quality of life.
 - LU1-1 Strategic Growth. We concentrate growth in strategic locations that help create place and identity, maximize available and planned infrastructure, and foster the development of transit.

- LU1-6 Complete Community. We incorporate a variety of land uses and building types in our land use planning efforts that result in a complete community where residents at all stages of life, employers, workers and visitors have a wide spectrum of choices of where they can live, work, shop and recreate within Ontario. (Refer to Complete Community Section of Community Economics Element).

Housing Element – Neighborhoods & Housing

- Goal H1: Stable neighborhoods of quality housing, ample community services and public facilities, well-maintained infrastructure, and public safety that foster a positive sense of identity.
 - H1-4 Historical Preservation. We support the preservation and enhancement of residential structures, properties, street designs, lot configurations, and other reminders of Ontario's past that are considered to be local historical or cultural resources.

Housing Element – Housing Supply & Diversity

- Goal H2: Diversity of types of quality housing that are affordable to a range of household income levels, accommodate changing demographics, and support and reinforce the economic sustainability of Ontario.
 - H2-5 Housing Design. We require architectural excellence through adherence to City design guidelines, thoughtful site planning, environmentally sustainable practices and other best practices.

Community Economics – Complete Community

- Goal CE1: A complete community that provides for all incomes and stages of life.
 - CE1-6 Diversity of Housing. We collaborate with residents, housing providers and the development community to provide housing opportunities for every stage of life; we plan for a variety of housing types and price points to support our workforce, attract business and foster a balanced community

Community Design Element — Image & Identity

- Goal CD1: A dynamic, progressive city containing distinct neighborhoods and commercial districts that foster a positive sense of identity and belonging among residents, visitors, and businesses.
 - CD1-1 City Identity. We take actions that are consistent with the City being a leading urban center in Southern California while recognizing the diverse character of our existing viable neighborhoods.

- CD1-3 Neighborhood Improvement. We require viable existing residential and non-residential neighborhoods to be preserved, protected, and enhanced in accordance with our land use policies.

Community Design Element — Design Quality

- Goal CD2: A high level of design quality resulting in public spaces, streetscapes, and developments that are attractive, safe, functional and distinct.
 - CD2-1 Quality Architecture. We encourage all development projects to convey visual interest and character through:
 - Building volume, massing, and height to provide appropriate scale and proportion;
 - A true architectural style which is carried out in plan, section and elevation through all aspects of the building and site design and appropriate for its setting; and
 - Exterior building materials that are visually interesting, high quality, durable, and appropriate for the architectural style.

Community Design Element — Historic Preservation

- Goal CD4: Historic buildings, streets, landscapes and neighborhoods, as well as the story of Ontario's people, businesses, and social and community organizations, that have been preserved and serve as a focal point for civic pride and identity.
 - CD4-2 Collaboration with Property Owners and Developers. We educate and collaborate with property owners and developers to implement strategies and best practices that preserve the character of our historic buildings, streetscapes and unique neighborhoods

ENVIRONMENTAL REVIEW: Staff independently reviewed, evaluated and exercised judgment over the project and the project's environmental impacts and determined that the proposed project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to § 15331 Class 31 Historical Resource Restoration/Rehabilitation.

RESOLUTION NO.

A RESOLUTION OF THE HISTORIC PRESERVATION COMMISSION OF THE CITY OF ONTARIO, APPROVING FILE NO. PHP16-020, A CERTIFICATE OF APPROPRIATENESS TO CONSTRUCT A 641 SQUARE FOOT ADDITION TO AN EXISTING 917 SQUARE FOOT SINGLE FAMILY RESIDENCE (JOHN W. FEENEY HOUSE), A CONTRIBUTOR TO THE ROSEWOOD COURT HISTORIC DISTRICT, ON 0.13 ACRES OF LAND AT 319 EAST ROSEWOOD COURT, WITHIN THE LDR-5 (LOW DENSITY RESIDENTIAL – 2.1 TO 5.0 DUS/ACRE) ZONING DISTRICT, AND MAKING FINDINGS IN SUPPORT THEREOF (APN: 1048-063-20)

WHEREAS, Grant Mackay, (“Applicant”) has filed an application for the approval of a Certificate of Appropriateness, File No. PHP16-020, as described in the title of this Resolution (hereinafter referred to as “Project”); and

WHEREAS, the City’s character and history are reflected in its cultural, historical, and architectural heritage with an emphasis on the “Model Colony” as declared by an act of the Congress of the United States and presented at the St. Louis World’s Fair in 1904; and

WHEREAS, the City’s historical foundations should be preserved as living parts of community life and development in order to foster an understanding of the City’s past so that future generations may have a genuine opportunity to appreciate, enjoy, and understand Ontario’s rich heritage; and

WHEREAS, the Community Development and the Aesthetic, Cultural, Open Space and Recreational Resources Elements of the Policy Plan Component of the Ontario Plan sets forth Goals and Policies to conserve Ontario’s historic buildings and districts; and

WHEREAS, Section 4.02.050 (Historic Preservation - Certificates of Appropriateness and Demolition of Historic Resources) of the Ontario Development Code requires approval of a Certificate of Appropriateness for any alteration, restoration and/or resurfacing of a designated historic resource; and

WHEREAS, the John W. Feeney House is worthy of preservation and was designated by the City Council on October 2, 2001 as a Contributor to the Rosewood Court Historic District; and

WHEREAS, the Application is a project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) (“CEQA”) and an initial study has been prepared to determine possible environmental impacts; and

WHEREAS, the Project is exempt from CEQA pursuant to a categorical exemption (listed in CEQA Guidelines Article 19, commencing with Section 15300) and the application of that categorical exemption is not barred by one of the exceptions set forth in CEQA Guidelines Section 15300.2; and

WHEREAS, the proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plan (ALUCP) for ONT; and

WHEREAS, on February 9, 2017, the Historic Preservation Subcommittee of the City of Ontario conducted a hearing and issued Decision No. HPSC17-001, recommending the Historic Preservation Commission approve the Application; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, BE IT RESOLVED, that the Historic Preservation Commission of the City of Ontario as follows:

SECTION 1. As the decision-making body for the Project, the Historic Preservation Commission has reviewed and considered the information contained in the administrative record for the Project. Based upon the facts and information contained in the administrative record, including all written and oral evidence presented to the Historic Preservation Commission, the Historic Preservation Commission finds as follows:

a. The Project is categorically exempt from environmental review pursuant to Section 15331 (Class 31—Historical Resource Restoration/Rehabilitation) of the CEQA Guidelines; and

b. The application of the categorical exemption is not barred by one of the exceptions set forth in CEQA Guidelines Section 15300.2; and

c. The determination of CEQA exemption reflects the independent judgment of the Historic Preservation Commission.

SECTION 2. Based upon the substantial evidence presented to the Historic Preservation Commission during the above-referenced hearing and upon the specific findings set forth in Section 1 above, the Historic Preservation Commission hereby concludes that the new construction, in whole or in part:

a. Will not detrimentally change, destroy or adversely affect any significant architectural feature of the resource. The proposed addition will be constructed at the rear of the residence to minimize visual impacts and will result in the least possible loss of

historic materials. The proposed horizontal fiber cement siding, custom windows, French doors and other architectural details on the new construction will match those of the main building resulting in a seamless addition, and therefore will not adversely change or affect any significant architectural features of the resource. Additionally, the removal of the inappropriate windows and replacement with appropriate windows will restore the significant architectural features of the resource; and

b. Will not detrimentally change, destroy or adversely affect the historic character or value of the resource. The proposed roof pitch, exterior finishes and windows are all consistent with the Colonial Revival Bungalow architectural style of the building. The size and placement of the addition maintains the existing scale and massing from the public view, resulting in little to no visual impact from Rosewood Court. The interior side yard setback of the new construction will be slightly larger than the existing, resulting in reduced visibility from Rosewood Court, and therefore will not detrimentally change, destroy or adversely affect the historic character or value of the resource; and

c. Will be compatible with the exterior character-defining features of the historic resource. Through appropriate placement, scale, windows and exterior finishes compatible with the Colonial Revival Bungalow architectural styles, the proposed new construction will be compatible with the exterior character-defining features of the historic resource; and

SECTION 3. Based upon findings set forth in Sections 1 and 2 above, the Historic Preservation Commission hereby APPROVES the Certificate of Appropriateness, subject to the conditions attached herein and by this reference (Exhibit A).

SECTION 4. The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall incorporate fully in the defense.

SECTION 5. The documents and materials that constitute the record of proceedings on which these findings have been raised are located at Ontario City Hall, 303 East B Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 6. The secretary shall certify to the adoption of the Resolution.

Historic Preservation Commission Resolution
File No. PHP16-020
February 28, 2017
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The Secretary Pro Tempore for the Historic Preservation Commission of the City of Ontario shall certify as to the adoption of this Resolution.

I hereby certify that the foregoing Resolution was duly and regularly introduced, passed and adopted by the Historic Preservation Commission of the City of Ontario at a regular meeting thereof held on the 28th day of February 2017, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.

Jim Willoughby
Historic Preservation Commission
Chairman

ATTEST:

Scott Murphy
Planning Director/Secretary of Historic
Preservation Commission

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February 28, 2017
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STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, Marci Callejo, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. **PC17-***** was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on February 28, 2017 by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marci Callejo
Secretary Pro Tempore

Exhibit A – Conditions of Approval

1. Time Limits.

1.1. The Certificate of Appropriateness shall become void twenty-four (24) months from the date of approval unless a building permit has been issued and work authorized by this approval has commenced prior to the expiration date and is diligently pursued to completion.

2. Site Plan.

2.1. New construction shall maintain a 6' separation from detached garage.

2.2. Water heaters shall be placed at one of the following locations:

- a) At the rear of the residence or the rear of the detached garage within an enclosure that is designed to fully integrate with the architectural style. The enclosure shall be a cabinet covered in wood siding and have a shed roof covered in roofing materials to match the residence; or
- b) Within the main residence; or
- c) Within the detached garage.

3. Architectural Treatment.

3.1. Exterior light fixtures shall be period appropriate. Submit a cut sheet to Planning for review and approval prior to issuance of building permit.

3.2. New Construction.

3.2.1. All of the exterior siding on the buildings shall be a narrow fiber cement horizontal plank siding to match the original building.

3.2.2. Roof slope of new construction shall match the existing building. All roofing material shall be a 30 year dimensional composition architectural shingle and shall match existing. Submit a cut sheet to Planning for review and approval prior to issuance of building permit.

3.2.3. The hipped gable end of the new construction shall match the hipped gable end of the original. A fascia board shall be added to the gable end of the new construction to match existing.

3.2.4. Eave overhang and exposed rafter tails shall match existing.

3.2.5. The style (frame thickness, opening direction, etc.) and fenestration of the new windows shall be consistent from the original to new construction. Submit a cut sheet to Planning for review and approval prior to issuance of building permit.

3.2.5.1. Windows shall be hung style.

3.2.5.2. All windows and exterior doors shall have a minimum 2" recessed opening.

3.2.5.3. Window and exterior doors shall have wood trim to match existing.

3.2.5.4. The two bathroom windows shall be fixed, casement or awning windows. Slider windows shall not be used.

3.2.6. The finished floor on the new construction shall match existing.

3.3. Restoration

3.3.1. Wherever original windows have been replaced with inappropriate windows, new period appropriate windows will be installed.

3.3.1.1. All slider windows will be replaced with hung windows (no grid patterns). Any existing hung windows will remain.

3.3.1.2. The two fixed windows on the primary façade will be replaced with true divided lite casement windows.

4. Exterior paint colors shall be Dunn Edwards "Green Mirror" on the siding and "Ivory" on trim, windows and doors. Any deviation from the approved color palette shall require approval of the Planning Department.
5. The applicant shall obtain a building permit prior to any demolition or construction.
6. Any deviation from the approved plans, stamped red-lined plans are the official set, shall require approval of the Planning Department and, if necessary, the Historic Preservation Subcommittee.
7. Conditions of Approval shall be reproduced onto the plans submitted for permits.
8. Prior to Occupancy the Planning Department shall inspect the premises to ensure the Conditions of Approval have been met and that the project has been constructed per the approved plans.



CITY OF ONTARIO

MEMORANDUM

TO: Chairman and Members of the Planning Commission

FROM: Scott Murphy, Planning Director *SM*

DATE: February 28, 2017

SUBJECT: MONTHLY PLANNING DEPARTMENT ACTIVITY REPORT; MONTH OF JANUARY 2017

Attached, you will find the Planning Department Monthly Activity Report for the month of January 2017. The report describes all new applications received by the Planning Department and actions taken on applications during the month. Please contact me if you have any questions regarding this information.

The attached reports, along with reports from past months, may also be viewed on the City's web site. New applications may be viewed at <http://www.ontarioca.gov/planning/reports/monthly-activity-reports-applications>, and actions taken on applications may be viewed at <http://www.ontarioca.gov/planning/reports/monthly-activity-reports-actions>.

Monthly Activity Report—New Applications

Month of January 2017

PCUP17-001:

Submitted by Lino Leon

A Conditional Use Permit to establish alcoholic beverage sales, including beer, wine and distilled spirits (Type 47 ABC License — On-Sale General Eating Place), in conjunction with a proposed 4,284 square foot restaurant (Mariscos El Viejon) on 1.55 acres of land, located at 440 North Mountain Avenue, within the HDR-45 and ICC (Interim Community Commercial) Overlay zoning districts (APN: 1010-462-03).

PCUP17-002:

Submitted by Alpha Formulations, LLC

A Conditional Use Permit to establish pharmaceutical manufacturing (vitamin products) on a 0.527-acre parcel of land located at 1710 South Balboa Avenue, within the IG (General Industrial) zoning district (APN: 0113-394-32).

PCUP17-003:

Submitted by FE Design & Consulting

A Conditional Use Permit to establish alcoholic beverage sales, limited to beer and wine, for consumption on the premises (Type 41 ABC License), in conjunction with an existing 2,926-square foot restaurant (Blaze IE) on 96.4 acres of land located at 1 Mills Circle, Suite 100 (Ontario Mills Mall), within the Regional Commercial land use district of the California Commerce Center North/Ontario Gateway Plaza/Wagner Properties Specific Plan (APN: 238-014-36).

PCUP17-004:

Submitted by Anthony Lionel Mejia

A Conditional Use Permit to construct a detached accessory structure in excess of 1,050 square feet in area (1,280 square feet) in conjunction with the construction of a two-story, 3,535-square foot single-family residence on 0.367 acres of land, located at 1521 North Euclid Avenue, within the Euclid Avenue Historic District, and the RE-4 (Residential Estate – 2.1 to 4.0 DU/Acre) and EA (Euclid Avenue) Overlay zoning districts (APN: 1047-251-02). Related File: PHP17-003.

PCUP17-005:

Submitted by GAA Architect

A Conditional Use Permit to establish a rooftop helipad in conjunction with a 79,455 square foot office building on approximately 5.05 acres of land located at the southwest corner of Haven Avenue and Guasti Road, within the office land use district of the Centrelake Specific Plan (APN: 0210-551-07). Related File: PDEV17-003.

PDET17-001:

Submitted by Skingenix Inc.

A Determination of Use to establish whether the manufacture of investigational drug products is similar to, and of no greater intensity than, other allowed permitted or conditionally permitted uses within the Industrial Park Land use Designation of the Corsair Specific Plan.

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PDET17-002: **Submitted by GAA Architects**

A Determination of Use to establishment whether a rooftop or ground helistop is similar to, and of no greater intensity than, other allowed permitted or conditionally permitted uses within the within the Centrelake Specific Plan.

PDEV17-001: **Submitted by Eukon Group**

Development Plan fees for Plan Check No. B201603835 - no previous PDEV associated with telecom facility. Modifications to cell site at 1025 North Vine Avenue. FAA determination provided.

PDEV17-002: **Submitted by Dave Seany**

A Development Plan to construct a 4,074 SF commercial addition to an existing 25,067 SF automotive sales facility (KIA) on 5.6 acres of land located at 1350 Woodruff Way, within the Commercial/Food/Hotel land use district of the California Commerce Center Specific Plan (APN: 238-201-41).

PDEV17-003: **Submitted by GAA Architects**

A Development Plan to construct an office building totaling 79,455 square feet on 5.05 acres of land located at the southwest corner of Haven Avenue and Guasti Road, within the Office land use district of the Centrelake Specific Plan (APN: 0210-551-07).

PHP-17-001: **Submitted by Tavk Holding LLC**

A Removal of an Historic Resource from the Ontario Register, a single family residence located at 1023 East Sixth Street, within the MDR-18 (Medium Density Residential - 11.1 to 18.0 DU/Acre) zoning district (APN: 1047-172-22).

PHP-17-001: **Submitted by Bali Paradise Investments, LLC**

A Tier Determination for a one-story, single-family residence in the Craftsman Bungalow style of architecture located at 904 South Palmetto Avenue (APN: 1011-413-01).

PHP-17-003: **Submitted by Anthony Lionel Mejia**

A Certificate of Appropriateness to construct a two-story, 3,535 SF single-family residence on 0.367 acres of land, located at 1521 North Euclid Avenue, within the Euclid Avenue Historic District, and the RE-4 (Residential Estate – 2.1 to 4.0 DU/Acre) and EA (Euclid Avenue) Overlay zoning districts (APN: 1047-251-02). Related File: PCUP17-004.

PMTT17-001: **Submitted by Brookcal Ontario LLC**

A Tentative Tract Map (TT 20076) to subdivide 7.65 acres of land into 62 numbered lots and 29 lettered lots, located at the northwest corner of Edison Avenue and Haven Avenue, within the Avenue Specific Plan (APN: 0218-412-03).

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PSGN17-001: **Submitted by Sign Specialists Corporation**

A Sign Plan for the installation of a wall sign (98 SF) for McCUNE WRIGHT AREVALO, located at 3281 East Guasti Road.

PSGN17-002: **Submitted by Wilson Wong**

A Sign Plan for the installation of a wall sign (16.67 SF) to read "Martial Arts," for WORLD MARTIAL ARTS TRAINING CENTER, located at 2250 South Archibald Avenue, Suite D.

PSGN17-003: **Submitted by Laura's Income Tax**

A Sign Plan for the installation of one temporary banner sign (3 FT x 8 FT) to read INCOME TAX CERTIFIED TAX PREPARER, located at 217 North Euclid Avenue. Allowed for 45 days per Downtown Design Guidelines, 1/16/2017 through 3/2/2017.

PSGN17-004: **Submitted by Carey Sign Corp**

A Sign Plan for the installation of a wall sign for PROLOGIS, located at 3546 East Concours Street.

PSGN17-005: **Submitted by Joao R Carvalho**

A Sign Plan for the installation of two Temporary Banner Signs (6 FT X 3 FT on Holt Boulevard frontage and 8 FT X 3 FT on Plum Avenue frontage) for ENRIQUEZ INCOME TAX, located at 230 East Holt Boulevard.

PSGN17-006: **Submitted by Barbara Cohen**

A Sign Plan to reface an existing monument entry sign for Piemonte Center, located at 4000 East Fourth Street.

PSGN17-007: **Submitted by AP SIGNS**

A Sign Plan to reface four existing signs and install one monument sign (29 SF) for FEDEX, located at 1801 East Avion Street.

PSGN17-008: **Submitted by Powersign Classic Neon**

A Sign Plan for the installation of three wall signs for MATTRESS FIRM (west and north elevations), located at 4210 East Inland Empire Boulevard.

PSGN17-009: **Submitted by Alcon Signs**

A Sign Plan for the installation of a wall sign for BALDY VIEW R.O.P. (north elevation, facing Inland Empire Boulevard), consistent with the requirements of the Transpark Sign Program, located at 2890 East Inland Empire Boulevard, Suite 100.

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PSGN17-010: **Submitted by Sign Industries**

A Sign Plan to install two wall signs for BIG AL'S BOWLING AND SPORTS BAR (north and west building elevations), located at 4120 East Fourth Street, Suite A.

PSGN17-011: **Submitted by Zaida Carbajal**

A Sign Plan to reface an existing legal nonconforming wall sign (13.5-SF “can sign”) for DR M ZAIDA CARBAJAL DENTAL PRACTICE, located at 611 North Euclid Avenue.

PSGN17-012: **Premier Display & Exhibits for Creme de la Creme Bakery**

A Sign Plan for the installation of a monument sign (7.5 FT wide by 7 FT high) for CRÈME DE LA CRÈME BAKERY and a “future tenant,” located at 2380 South Archibald Avenue.

PSGN17-013: **Submitted by CCMA**

A Sign Plan for the installation of a monument sign for CHAFFEY COMMUNITY MUSEUM OF ART, located at 217 South Lemon Avenue.

PSGP17-001: **Submitted by Western Realco**

A Sign Program to establish a multiple tenant master sign program for Ontario Business Park, located at 1520 through 1590 South Grove Avenue, within the Grove Avenue Specific Plan.

PSGP17-002: **Submitted by Jones Sign Co., Inc.**

A Sign Program to establish a multiple tenant master sign program located at the southeast corner of Holt Boulevard and Pleasant Avenue, within the Commercial and Light Industrial land use districts of the Melrose Plaza Planned Unit Development.

PTUP17-001: **Submitted by Quang Thien Buddhist Temple**

A Temporary Use Permit for the Annual Vietnamese New Year Ceremony with prayer and Vietnamese traditional music, located at 704 East “E” Street. To be held on 2/5/2017.

PTUP17-002: **Submitted by Ontario Masonic Lodge - Mile Square Foundation**

A Temporary Use Permit for a fundraiser for the National Hispanic Police Officers Association and Mile Square Foundation, located at the Masonic Lodge, 1025 North Vine Avenue. Indoor event involving alcohol, to be held on 2/11/2017.

PTUP17-003: **Submitted by City of Ontario Economic Development**

A Temporary Use Permit for a VIP Reception for the Sheet, Sheets and Caughman Exhibition - Art for Living and Living for Art. Art Exhibit, located at 225 South Euclid Avenue.

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PVER17-001: **Submitted by Zoning Info**

A Zoning Verification for 1056 East Philadelphia Street (APN: 1051-141-71).

PVER17-002: **Submitted by Thrifty Oil Co.**

A Zoning Verification for 5100 East Ontario Mills Parkway (APN: 0238-051-34).

PVER17-003: **Submitted by Enrique Pimentel**

A Zoning Verification for 203 West “I” Street (APN: 1048-261-18).

PVER17-004: **Submitted by A/E West Consultants, Inc.**

A Zoning Verification for 2191 South Burgundy Place (APN: 0238-152-21).

PVER17-005: **Submitted by Calistate Realty**

A Zoning Verification for 107 South Malcolm Avenue (APN: 1049-094-13).

PVER17-006: **Submitted by A/E West Consultants Inc.**

A Zoning Verification for 1925 through 1955 Burgundy Place; and 4750 through 4755 Zinfandel Court.

PWIL17-001: **Submitted by JA Bray, LCC**

A Partial Nonrenewal of Land Conservation Contract No. 71-338, located at the southwest corner of Schaefer and Hellman Avenues, within Planning Area 1B of The Avenue Specific Plan (APNs: 0218-181-23, 0218-181-24 and 0218-181-25).

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CITY COUNCIL MEETING

January 3, 2017

Meeting Cancelled

DEVELOPMENT ADVISORY BOARD MEETING

January 4, 2016

Meeting Cancelled

ZONING ADMINISTRATOR MEETING

January 4, 2017

Meeting Cancelled

CITY COUNCIL MEETING

January 17, 2017

No Planning Department Items Scheduled

DEVELOPMENT ADVISORY BOARD MEETING

January 18, 2017

ENVIRONMENTAL ASSESSMENT AND DEVELOPMENT PLAN FOR FILE NO. PDEV15-029: A Development Plan to construct an approximate 12,000 square foot tire center (Les Schwab) on a vacant 1.44 acre parcel of land, located within the Commercial/Office land use district of the California Commerce Center North (Ontario Mills) Specific Plan. The project is categorically exempt from environmental review pursuant to State CEQA Guidelines Section 15332 (In-Fill Development). The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT), and was evaluated and found to be consistent with the policies and criteria of the ONT Airport Land Use Compatibility Plan (ALUCP); (APN: 0238-014-56) **submitted by: Les Schwab Tire Centers.**

Action: The Development Advisory Board approved the Project subject to conditions.

ENVIRONMENTAL ASSESSMENT AND DEVELOPMENT PLAN FOR FILE NO. PDEV16-005: A Development Plan to construct a 14-unit apartment project on a vacant 0.54 acre parcel of land, located at 607 W D Street, within the Medium–High Density Residential (MDR-25) zone (proposed High Density Residential (HDR-45)–Related File No. PZC16-005). The environmental

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impacts of this project were previously analyzed with the Diamante Terrace Condominium EIR that was adopted by the Planning Commission on March 28, 2006 and was prepared pursuant to the requirements of California Environmental Quality Act. All adopted mitigation measures of the EIR shall be a condition of approval for the project and are incorporated herein by reference. The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT), and was evaluated and found to be consistent with the policies and criteria of the ONT Airport Land Use Compatibility Plan (ALUCP); (APN: 1048-581-07) **submitted by: 607 West, LP.** Planning Commission action is required.

Action: The Development Advisory Board recommended the Planning Commission approve the Project subject to conditions.

ENVIRONMENTAL ASSESSMENT AND TIME EXTENSION REVIEW FOR FILE NO. PMTT14-020: A one-year Time Extension of the expiration date for the approval of File No. PMTT14-020, a Tentative Parcel Map (PM 19552) to subdivide a 0.20-acre parcel of land into a single parcel for condominium purposes, located on the west side of Euclid Avenue, approximately 450 feet north of Elm Street, at 1420 South Euclid Avenue, within the MDR18 (Medium Density Residential – 11.1 to 18.0 DU/Acre) zoning district and EA (Euclid Avenue) Overlay district. The proposed project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15315 (Class 15, Minor Land Divisions) of the CEQA Guidelines. The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT), and was evaluated and found to be consistent with the policies and criteria of the ONT Airport Land Use Compatibility Plan (ALUCP); (APN: 1050-051-01) **submitted by Johnathan Ma.** Planning Commission action is required.

Action: The Development Advisory Board recommended the Planning Commission approve the Project subject to conditions.

ENVIRONMENTAL ASSESSMENT AND TENTATIVE TRACT MAP REVIEW FOR FILE NO. PMTT16-020: A Tentative Tract Map (TT 20061) for Condominium Purposes to subdivide 14.62 acres of land into 4 numbered lots and 23 lettered lots within the Medium Density Residential (MDR) and Low Density Residential districts of Planning Area 11 of The Avenue Specific Plan, located at the southwest corner of Ontario Ranch Road and New Haven Drive. The environmental impacts of this project were previously analyzed in an addendum to The Avenue Specific Plan EIR (SCH# 2005071109) that was adopted by the City Council on June 17, 2014. All adopted mitigation measures of the addendum shall be a condition of approval for the project and are incorporated herein by reference. The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plans (ALUCP) for ONT Airport; (APN: 0218-462-80 and 0218-513-24) **submitted by Brookcal Ontario, LLC.** Planning Commission action is required.

Action: The Development Advisory Board recommended the Planning Commission approve the Project subject to conditions.

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ZONING ADMINISTRATOR MEETING

January 18, 2017

Meeting Cancelled

PLANNING COMMISSION MEETING

January 24, 2017

ENVIRONMENTAL ASSESSMENT AND TIME EXTENSION REVIEW FOR FILE NO. PMTT14-020: A one-year Time Extension of the expiration date for the approval of File No. PMTT14-020, a Tentative Parcel Map (PM 19552) to subdivide a 0.20-acre parcel of land into a single parcel for condominium purposes, located on the west side of Euclid Avenue, approximately 450 feet north of Elm Street, at 1420 South Euclid Avenue, within the MDR18 (Medium Density Residential – 11.1 to 18.0 DU/Acre) zoning district and EA (Euclid Avenue) Overlay district. The proposed project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15315 (Class 15, Minor Land Divisions) of the CEQA Guidelines. The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT), and was evaluated and found to be consistent with the policies and criteria of the ONT Airport Land Use Compatibility Plan (ALUCP); (APN: 1050-051-01) **submitted by Johnathan Ma.**
Action: The Planning Commission approved a two-year time extension.

ENVIRONMENTAL ASSESSMENT AND TENTATIVE TRACT MAP REVIEW FOR FILE NO. PMTT16-020: A Tentative Tract Map (TT 20061) for Condominium Purposes to subdivide 14.62 acres of land into 4 numbered lots and 23 lettered lots within the Medium Density Residential (MDR) and Low Density Residential (LDR) districts of Planning Area 11 of The Avenue Specific Plan, located at the southwest corner of Ontario Ranch Road and New Haven Drive. The environmental impacts of this project were previously analyzed in an addendum to The Avenue Specific Plan Environmental Impact Report (SCH# 2005071109), approved by the City Council on June 17, 2014. The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plans (ALUCP) for ONT Airport; (APNs: 0218-462-80 and 0218-513-24) **submitted by Brookcal Ontario, LLC.**
Action: The Planning Commission approved the Project subject to conditions.

ENVIRONMENTAL ASSESSMENT AND GENERAL PLAN AMENDMENT REVIEW FOR FILE NO. PGPA16-006: A request to: [1] modify the Land Use Element of The Ontario Plan (General Plan) to change the land use designations shown on the Policy Plan Land Use Plan (Exhibit LU-1) for various parcels located throughout the City, including: a) the area generally located from Euclid to Bon View Avenues between State and Philadelphia Streets, b) the area south of the I-10 Freeway, generally located near Fourth Street and Grove Avenue, c) the properties on the west side of Vineyard Avenue between Philadelphia Street and SR-60 Freeway, and d) the elimination

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of the SoCalf Overlay within the Ontario Ranch area; [2] modify the text in the Land Use Designation Summary Table (Exhibit LU-02) to eliminate the SoCalf Overlay and allow the Commercial Transitional Overlay in non-residential locations; [3] modify the Future Buildout Table (Exhibit LU-03) to be consistent with the land use designation changes; and [4] modify the Environmental Resources Element text in Section ER5, Biological, Mineral & Agricultural Resources to eliminate all references to SoCalf.

Staff is recommending the adoption of an Addendum to an Environmental Impact Report (State Clearinghouse No. 2008101140), which was certified by the City Council on January 27, 2010, in conjunction with the approval of File No. PGPA06-001. The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT), and was evaluated and found to be consistent with the policies and criteria of the ONT Airport Land Use Compatibility Plan (ALUCP). (Cycle 1 General Plan Amendment for the Land Use and Environmental Resources Elements for 2017) (APNs: Various); **City Initiated**. City Council action is required.

Action: The Planning Commission recommended the City Council approve the Project.

ENVIRONMENTAL ASSESSMENT AND ZONE CHANGE REVIEW FOR FILE NO. PZC16-004: A request to change the zoning designations on various properties mainly concentrated in the mostly residential area to the east of Euclid Avenue between State and Philadelphia Streets with additional areas including the commercial and residential area around Fourth Street and Grove Avenue in order to make the zoning consistent with The Ontario Plan (TOP) land use designations of the properties. The environmental impacts of this project were previously analyzed in an Environmental Impact Report (State Clearinghouse No. 2008101140) adopted by City Council on January 27, 2010, in conjunction with the approval of File No. PGPA06-001. The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT), and was evaluated and found to be consistent with the policies and criteria of the ONT Airport Land Use Compatibility Plan (ALUCP). (APNs: Various); **City initiated**. City Council action is required.

Action: The Planning Commission recommended the City Council approve the Project.

ENVIRONMENTAL ASSESSMENT AND ZONE CHANGE FOR FILE NO. PZC16-005: A Zone Change on 51 properties in order to make the zoning designations consistent with the Policy Plan Land Use Plan, as follows: [1] from MDR-18 (Medium Density Residential – 11.1 to 18.0 DU/Acre) to HDR-45 (High Density Residential), [2] from MDR-25 (Medium-High Density Residential – 18.1 to 25.0 DU/Acre) to HDR-45 (High Density Residential – 25.1 to 45.0 DU/Acre), and [3] from CN (Neighborhood Commercial) to HDR-45 (High Density Residential – 25.1 to 45.0 DU/Acre), with an ICC (Interim Community Commercial) Overlay. The properties are generally located south of D Street, west of Vine Avenue, north of Vesta Street and east of San Antonio Avenue. The environmental impacts of this project were previously analyzed with The Ontario Plan Environmental Impact Report (SCH# 2008101140), which was certified by the City Council on January 27, 2010, in conjunction with the approval of File No. PGPA06-001. The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT), and was evaluated and found to be consistent with the policies and criteria of the ONT Airport Land Use

City of Ontario Planning Department
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Compatibility Plan (ALUCP). (APNs: 1048-581-01 thru 09, 11-12, 17, 33, 35-36, 39-45, 48-59, 62, and 67-82); **City Initiated**. City Council action is required.

Action: The Planning Commission recommended the City Council approve the Project.

ENVIRONMENTAL ASSESSMENT AND DEVELOPMENT PLAN FOR FILE NO. PDEV16-005: A Development Plan to construct a 14-unit apartment project on a vacant 0.54-acre parcel of land, located at 607 West D Street, within the MDR-25 (Medium-High Density Residential ()) zone (proposed High Density Residential (HDR-45) –Related File No. PZC16-005). The environmental impacts of this project were previously analyzed with the Diamante Terrace Condominium Environmental Impact Report, which was certified by the Planning Commission on March 28, 2006. The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT), and was evaluated and found to be consistent with the policies and criteria of the ONT Airport Land Use Compatibility Plan (ALUCP). (APN: 1048-581-07); **submitted by: 607 West, LP.**

Action: The Planning Commission approved the Project subject to conditions.
